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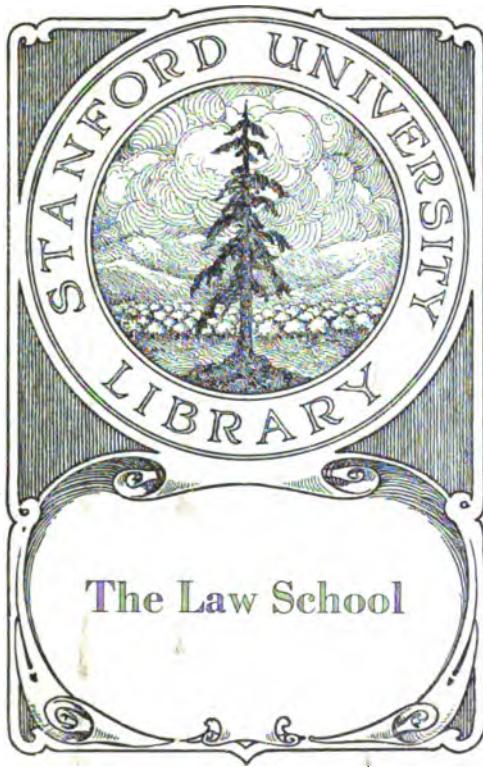
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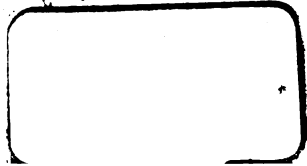
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G.S.
THE STATE OF OHIO.

GENERAL AND LOCAL LAWS,

AND

JOINT RESOLUTIONS,

PASSED BY THE

FIFTY-EIGHTH GENERAL ASSEMBLY,

AT THE ADJOURNED SESSION,

Begun and Held at the City of Columbus November 23d, A. D. 1868, and in the
67th Year of said State.

VOLUME LXVI.

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GENERAL LAWS

AN ACT

Making partial appropriations for the year 1868.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That there be, and is hereby appropriated, from any money in the treasury belonging to the general revenue, for the purposes hereinafter named, the following sums:

For the payment of expenses of the presidential election tion, two thousand and five hundred dollars.

For payment of the expenses of the trustees of the benevolent institutions, one thousand and five hundred dollars.

To pay the expenses of taking care of the state house and grounds, one thousand dollars.

To pay for gas for lighting the state house, two thousand dollars.

To pay members of the general assembly, their clerks, assistant clerks, sergeants-at-arms, assistant sergeants-at-arms and messengers, under resolutions of the senate and house, and the laws, fifty thousand dollars.

For binding for state, five thousand dollars.

For printing and binding department of deaf and dumb asylum, three thousand dollars.

For mileage of county treasurers, three hundred dollars.

For the asylum for the education of idiotic and imbecile youth, five thousand dollars.

For expenses of the fiscal agency of New York, to date of transfer of same to be paid from the sinking fund, two hundred seventy-six dollars and eighty-nine cents, being balance of salary due A. P. Russell, late state agent.

For the payment of per diem and expenses of legislative committees, four thousand dollars.

For revising lists of Ohio soldiers who were killed in battle, in pursuance of joint resolution adopted May 12, 1868, (65 O. L., p. 303,) five hundred dollars.

SEC. 2. This shall take effect from and after its passage.

Appropriation.

Expenses of presidential election.

Trustees of benevolent institutions.

State house grounds.

Gas for state house.

Members, &c. of general assembly.

Binding.

Printing and Binding, &c. Treasurers' mileage. Idiotic asylum.

Salary of fiscal agent.

Expenses legislative committees.

Revising list of soldiers.

F. W. THORNHILL,
Speaker of the House of Representatives.

J. C. LEE,
President of the Senate.

Passed Nov. 25th, 1868.

AN ACT

To amend section sixty-five of an act entitled an act relating to wills, and the repeal of former acts relating thereto; passed May 8, 1852, and took effect June 1, 1852.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section sixty-five of the above recited act be so amended as to read as follows:

Estate directed or devised by will to be sold by executors, &c., who may sell.

Section 65. When a last will and testament is admitted to probate, or a will made out of this state is admitted to record as hereinbefore provided, and any lands, tenements or hereditaments are given or devised by such will to the executors therein named, or any of them, to be sold or conveyed, or such estate shall be thereby ordered to be sold by such executors, or any of them, and one or more of the executors so named die, refuse to act, or neglect to take upon themselves the execution of the will, then all sales and conveyances of said estate by the executor or executors who took upon himself or themselves in this state the execution of the will, or the survivor or survivors of them, shall be equally valid as if the residue of the executors had joined in the sale and conveyance; but if none of the executors named in such will take upon themselves the execution thereof, or if all the executors who take out letters testamentary, die, resign or be removed before the sale and conveyance of such estate, or die, resign or be removed after the sale and before the conveyance is made, the sale or conveyance or both shall be made by the administrator with the will annexed.

Section repealed.

SEC. 2. Said original section sixty-five and the act entitled "an act to amend the act relating to wills," passed March 23, 1840, passed March 8, 1845, are hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,

Speaker of the House of Representatives.

J. C. LEE,

President of the Senate.

Passed Jan. 15, 1869.

AN ACT

Fixing the times of holding district courts and courts of common pleas for the year 1869 in the 5th judicial district of the state of Ohio.

Fifth judicial district.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the terms of the district courts and the

courts of common pleas in the several counties in the 5th judicial district of the state of Ohio, for the year 1869, shall commence and be held at the times following, to wit:

DISTRICT COURTS.

Madison, May 4; Franklin, May 5; Pickaway, May 10; District
Fayette, May 14; Adams, September 18; Brown, September courts.
20; Clermont, September 24; Highland, September 28; Ross,
October 1.

COURTS OF COMMON PLEAS.

Brown, February 9; June 1; November 2.

Adams, January 27; May 18; September 21.

Clermont, second term, June 29; October 12.

Highland, second term, May 18; October 13.

Ross, January 26; June 1; November 2.

Fayette, February 23; June 29; November 30.

Madison, February 2; May 18; October 19.

Pickaway, March 8; June 15; November 2.

Franklin, February 16; June 1; November 15.

SEC. 2. This act shall take effect and be in force from and after its passage.

Common
pleas courts.

F. W. THORNHILL,

Speaker of the House of Representatives.

J. C. LEE,

President of the Senate.

Passed January 14, 1869.

AN ACT

Supplemental to the act entitled "an act to fix the compensation of members and officers of the general assembly," passed April 2, 1866.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That it shall be the duty of the president of the senate and speaker of the house of representatives, each, to ascertain the number of days' actual attendance of each member and officer of their respective houses during the session of the general assembly, and the number of miles travel of each member to and from the seat of government, and certify the same to the auditor of state, together with the amount due such member or officer, according to the provisions of the act to which this is supplemental; and the auditor of state shall draw his warrant on the treasurer of state for the amount stated in such certificate, and the treasurer of state shall pay the same.

President of
senate and
speaker of
house to as-
certain days
of actual at-
tendance,
&c.

SEC. 2. The words "actual attendance" used in the preceding section and in the act to which this is supplemental,

Definition of
"actual at-
tendance."

shall be construed to include all days from the opening to the close of the session, except such days of absence as are not excused by the house to which the member or officer belongs.

SEC. 3. This act shall take effect from its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.

J. C. LEE,
President of the Senate.

Passed January 20th, 1869.

AN ACT

To change the time fixed for holding the first term of the court of common pleas for the year 1869 in the county of Wayne.

Change of
first term in
Wayne
county.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the time for holding the first term of the court of common pleas for the year 1869 in the county of Wayne, as fixed by the judges of the sixth judicial district, be changed, and that said term be held on the sixth day of April, A. D. 1869, instead of on the eighth day of February, A. D. 1869, as fixed by said judges.

SEC. 2. This act shall be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.

J. C. LEE,
President of the Senate.

Passed January 28, 1869.

AN ACT

To provide for the appointment of a messenger of the supreme court.

Appoint-
ment of mes-
senger, his
term, com-
pensation
&c.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the judges of the supreme court be and they are hereby authorized to appoint a messenger of the supreme court, who shall attend the sessions of the court and perform such duties as said court shall direct. Said messenger shall be appointed from term to term as the judges may

deem expedient, and shall receive for his services two dollars and fifty cents per day during the session of the court, to be paid out of appropriations for contingent expenses of said court; the account for said services to be first approved by one of the judges. The law librarian shall not be required to furnish an assistant during the session of the court.

SEC. 2. This act shall take effect on its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.

J. C. LEE,
President of the Senate.

Passed January 28, 1869.

AN ACT

To amend section ninety-three of the act entitled "an act of the jurisdiction and procedure before justices of the peace, and of the duties of constables in civil courts," passed March 14, 1858. (S. & C., 786.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section ninety-three of the above entitled act be amended so as to read as follows:

Sec. 93. In all cases before a justice of the peace, whether tried by a jury or by the justice, either party shall have the right to except to the opinion of the justice upon any question of law arising during the trial of the cause; and when either party shall allege such exception, it shall be the duty of the justice to sign and seal a bill containing such exceptions if truly alleged, with the point decided, so that the same may be made part of the record in the cause; and whenever either party during the trial shall require time to prepare his bill of exceptions, the justice shall appoint a time when the same shall be settled and signed, not more than five days from the day of trial.

Bill of exceptions on trial before justice.

SEC. 2. That section ninety-three of said act be and the same is hereby repealed, provided such repeal shall not affect any right which has accrued under said section.

Section repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.

J. C. LEE,
President of the Senate.

Passed February 11, 1869.

AN ACT

To amend section two of an act supplementary to an act to provide for the creation and regulation of incorporated companies in the state of Ohio, passed May 1, 1852, passed April 6, 1859. (Swan and Critchfield, p. 345.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section two of an act supplementary to an act to provide for the creation and regulation of incorporated companies in the state of Ohio, passed May 1, 1852; passed April 6, and took effect May 1, 1859, be so amended as to read as follows:

Subscription
books, elec-
tion of direc-
tors, &c.

Sec. 2. That the corporators named in said certificate shall open the books of the said company for subscription to the capital stock of said company, and as soon thereafter as ten per cent. of the capital stock shall be subscribed and paid in money, they shall call a meeting of the persons who shall have subscribed stock as aforesaid, by giving three weeks notice of the time and place of such meeting in some newspaper circulating along the line of such improvement, and shall then and there proceed to elect five directors, who shall be stockholders in said company, who shall hold their office as such directors for one year from and after said election, and until their successors shall be elected and qualified, one of whom shall be president, and one treasurer, and one secretary, to be named on the tickets when voted for by the stockholders as aforesaid. Each stockholder shall be entitled to one vote for each and every share of stock that he may own, and after the first election no stockholder shall be entitled to a greater number of votes than the number of shares he may have paid into the said company.

Section
repealed.

SEC. 2. Original section two of the above recited act, to which this is amendatory, is hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

A. T. WALLING,
Speaker pro tem. of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed February 11th, 1869.

AN ACT

To authorize county commissioners in certain cases to accept devises and legacies, and to erect and maintain an orphan asylum in connection with a "Children's Home."

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That when any person has heretofore by his or

her last will and testament provided for, or shall hereafter provide for the tender of his or her estate, or any part thereof, to any county of this state for the purpose of providing for the erection and endowment of an asylum where poor white children, who have lost one or both of their parents, may be educated, and if necessary be supported during their minority on the condition that said county accept said devise, subject to the trusts mentioned in said will, the principal to be kept sacred, and the net income thereof, together with a like sum to be furnished by said county, to be annually applied to the support and maintenance of such an institution, it shall be lawful for the commissioners of any county to accept the same and to proceed to carry out the said will.

County commissioners may accept devises, &c.

SEC. 2. That in case of the acceptance of any such trust and bequest by the commissioners of any such county, it shall be lawful for such commissioners, if they see proper to do so, to attach to such an institution to be erected and maintained out of funds and property so bequeathed and devised, and the like amount of income to be annually furnished by said county as aforesaid, a "Children's Home," which shall be an asylum for all other white persons resident of the county where such home is located, under sixteen years of age, who by reason of abandonment by parents, neglect or inability of parents to provide for them, or other cause, shall, in the opinion of the trustees of said institution hereinafter provided for, be deemed suitable and proper persons to be admitted thereto; and the name, birthplace and age of each person so admitted, together with the names and residence of the parents of each person, and such other statements in relation to said persons as may be deemed necessary and proper, including the time of reception and discharge, shall be recorded by the superintendent of such institution, in a book to be provided by the county for that purpose, which book shall be open to public inspection.

May attach a children's home, &c.

SEC. 3. That for the purpose of carrying out the foregoing provisions, the county commissioners of any such county are hereby authorized, when in their opinion the interests of the public demand it, to provide for the purchase of a suitable site and the erection of the necessary buildings for the same, and to provide by taxation or otherwise, for the erection and support of said buildings an institution; and they are hereby authorized to receive and hold in trust for the use and benefit of any such an institution, any grant or devise of land, and any donation or bequest of money or other personal property that may be made for the establishment or support thereof.

May purchase site, erect buildings, &c.

SEC. 4. That when the necessary site and buildings are provided by the county, it shall be the duty of the court of common pleas of such county, immediately thereafter, to appoint a board of six trustees to manage the said institution, and who shall be judicious persons, resident of said county. The two directors first named shall serve for six years, the second two for four years, and the third two for six years, and as their terms shall expire their successors shall be appointed by the court for the term of six years; and in case of removal from the county, death, resignation, removal by the

Court to appoint trustees, their duties, &c.

- Superintendent to be appointed.** court for cause, or vacancy in said office, or for any other cause, the court shall fill such vacancy at its first session thereafter; said trustees shall not receive any compensation for their services; they shall appoint a superintendent and other necessary officers of said institution, and with the concurrence of the county commissioners fix the salaries thereof; said officers to be removed at any time at the pleasure of the trustees, and if requested by them, shall give bond in such sum and with such conditions as the trustees shall prescribe; and said trustees, in the support and maintenance of said institution, shall not annually expend or contract any indebtedness more than the amount authorized to be expended by the commissioners of said county.
- Limitation of powers.** SEC. 5. That if prior to the tender of any such bequest to any such county, the commissioners thereof shall have erected or commenced the erection of any building for a "Children's Home" under any other law of this state, they may appropriate the same to the purposes of such an institution as is contemplated in this act.
- Appropriation of buildings previously erected.** SEC. 6. That all the inmates of said institution who have been neglected or abandoned as aforesaid, or who have been by the parent or parents or guardian of said person voluntarily surrendered to the trustees of such institution, in all such cases the said trustees shall have the sole and exclusive guardianship and control of such children during their stay in said home, and until they shall arrive at the age of sixteen years; and the said trustees shall also have power to discharge any of the inmates of said home, when in their judgment said inmate has become an unsuitable person for such home, and such person when so discharged, shall resume the same power and authority as they originally possessed; provided, the said trustees may, in their discretion, return any of the inmates of said home to the parents or guardian of such inmates, when they believe said inmates are capable of earning and providing for themselves, or their parents or guardians for them.
- Control of the inmates.** SEC. 7. That it shall be the duty of said board of trustees to seek suitable homes for all such children so committed, and indenture the same to such persons as may be willing to rear the same; also to cause such children to be adopted by parties willing to adopt such children; provided, that the person to whom such child is indentured, or by whom such child is adopted, is deemed by said board of trustees a suitable person, and the said superintendent shall enter into a book, to be provided him by the commissioners of such county, the date when any of the inmates of said institution shall be indentured or adopted, the name and age of such inmate, the name and place of residence of the person to whom indentured or by whom adopted; and if indentured, a substantial statement of the conditions of such indentures, which said book shall be at all times open for inspection to any person interested in any of the inmates of such institution.
- Homes to be sought, children indentured, &c.**

SEC. 8. It shall be the duty of the said board of trustees, to report quarterly to the county commissioners of said county the condition, wants and numbers of inmates in said institution, together with a detailed statement of all its receipts and expenditures for the preceding quarter. They shall, also, make an annual report to the court of common pleas of said county, of the condition and wants of the institution, the number of officers and employes in the same, the compensation paid to each, the number of children in the institution, the gross receipts and expenditures of the institution for the preceding year, the number of children received, the number discharged and for what reason, and the number indentured, which report shall be published by the court by giving it one insertion in some newspaper having a general circulation in said county.

Quarterly
and annual
reports.

SEC. 9. This act shall take effect from and after its passage.

F. W. THORNHILL,

Speaker of the House of Representatives.

WM. LAWRENCE,

President pro tem. of the Senate.

Passed February 11, 1869.

AN ACT

Authorizing county commissioners and city councils to aid and encourage industrial schools and childrens' home for the benefit of neglected and destitute children.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That in any county in the state of Ohio where there now is or hereafter may be an incorporated "childrens' aid society," or "childrens' home," or "industrial school," or "industrial school and home," or any other incorporated society whose object is the care, aid and education of neglected or destitute children, the county commissioners of such county, and the city council of any city or cities in such county, in addition to the powers now conferred upon such commissioners or city council, are hereby authorized, if they deem it judicious, to aid any such institution to purchase land, erect buildings, either by subscription with others to raise a fund for that purpose, or by direct aid or donation, or otherwise, in amount not exceeding six thousand dollars, as they may deem expedient.

County commissioners
and city
councils may
appropriate
not to exceed
\$6,000, &c.,

SEC. 2. This act shall be in force from and after its passage.

F. W. THORNHILL,

Speaker of the House of Representatives.

T. J. GODFREY,

President pro tem. of the Senate.

Passed February 11, 1869.

AN ACT

For the protection of cranberry marshes.

Ditches,
drains, &c.,
may be
abated.

Proviso.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That whenever it shall appear to the commissioners of any county or the trustees of any township in this state, upon petition of a majority of the persons whose lands are affected thereby, that any ditch, drain or water course laid out and established by the commissioners of such county or the trustees of such township according to law, is likely to cause destruction of or material injury to, or to diminish the crop of cranberries on any lands so affected, said commissioners or trustees, as the case may be, may, if by them deemed just and proper, vacate or cause to be filled up such ditch, drain or water course, or so much thereof as may be necessary to save such cranberry lands or the crop thereon from destruction or material injury; provided that whenever by reason of filling up or vacating any such ditch, drain or water course, or any part thereof, any person having been assessed for constructing the same shall suffer damage, the commissioners or trustees as the case may be, shall assess and determine the amount of such damage, and the amount so assessed and determined shall be paid by the persons interested as directed by the commissioners or trustees before such vacating or filling up shall be allowed.

SEC. 2. This act shall be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
T. J. GODFREY,
President pro tem. of the Senate.

Passed February 25, 1869.

AN ACT

To amend section sixteen of an act entitled "an act to amend an act entitled 'an act to provide for the reorganization, supervision and maintenance of common schools,' passed March 14, 1853, and the acts amendatory thereto," passed March 28, 1865. (O. L., vol. 62, p. 62.)

When and
how sub-
school dis-
tricts may be
formed.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section sixteen of the above recited act be so amended as to read as follows:

Section 16. That whenever the better accommodation of scholars makes it desirable to form a sub-district composed of parts of two or more adjoining townships, by mutual agreement between the boards of education of such townships respectively, a transfer of territory for school purposes may be

made to the township in which the school house of such joint sub-district is or may be situated; and the qualified voters resident within such joint sub-district, so composed, shall at the same time and in the same manner as school directors in other sub-districts are selected, proceed to elect directors, who shall have the same powers, perform the same duties, and be subject to the same penalties as directors in sub-districts; provided, that in taking the enumeration of youth, it shall be the duty of said directors to return a certified copy of such enumeration to the clerk of the township in which the school house is located, designating in each case the number of youth, male and female, residing in the respective parts of the several townships so united. The school in such joint sub-district shall be under the general control of the board of education of the township in which the school house is situated, of which board the clerk of said joint sub-district shall be a member, but such school shall be supported from the school funds of the respective townships having territory in said joint sub-district, in proportion to the enumeration of youth; and the board of education, having charge of said joint school, shall make the proper estimates of the share of expenses of every kind necessary to sustain it, to be paid by each of the said townships, so united, and shall certify such estimates to the auditor of the proper county, who shall add the same to the annual estimates for school purposes made and certified by the boards of education of said townships respectively, and shall assess and collect the same as parts of such township estimates; and at the time of distributing the school funds, the county auditor shall transfer from the adjoining townships the amount assessed and collected for the support of said joint school to the township having control of said joint school, and certify to the clerk and treasurer of such township the amount due to the same, including state tax, sale or rent of school lands, township tax, or from other sources. No joint sub-district composed of the fractional parts of two or more townships, which is now organized or may hereafter be organized, shall be dissolved, changed or altered, unless by the concurrent action of the boards of education of the several townships which may have territory included in such sub district. In all cases where any parts of such joint sub-district shall be in more than one county, the assessment and numeration shall be made for each fraction, as provided in the first section of this act; but returns of such assessment of taxes and enumeration of youth shall be made to the county auditor of the several counties interested, of the amount belonging to such counties respectively, to be collected as above provided, and when so collected the amount shall be certified by each county auditor to the clerk and treasurer of the township having control of said school, and the amount shall be paid to the treasurer of such township by each county the same as payments to townships within the respective counties are now made.

Election of directors.

—their powers and duties.

School fund, how collected, applied, &c.

When joint subdistrict may be dissolved.

Provision where parts of subdistricts are in two or more counties.

SEC. 2. That section sixteen of the above recited act be and the same is hereby repealed.

SEC. 3. This act shall be in force from and after its passage.

F. W. THORNHILL,

Speaker of the House of Representatives.

T. J. GODFREY,

President pro tem. of the Senate.

Passed February 25, 1869.

AN ACT

To amend an act entitled "an act supplementary to the act entitled 'an act to provide for the creation and regulation of incorporated companies in the state of Ohio,' passed May 1st, 1852." (O. L., vol. 64, 1867, p. 182.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section nine of the above recited act be amended so as to read as follows:

Corporations
for certain
purposes.

Section 9. Corporations may also be formed under this act for the following purposes:

1st. For the preservation and exhibition of works of art.

2d. For encouraging and cultivating a taste for music.

3d. For the advancement of legal, medical and theological knowledge, and knowledge in all the sciences, arts, trades, business and professions in life, and the better and more convenient discharge of duties connected therewith.

4th. For the formation and encouragement of floral, horticultural, nursery and fruit companies.

5th. For cutting or quarrying, buying and selling marble, iron, stone, or other natural or artificial products.

Section re-
pealed.

SEC. 2. That section nine of the act to which this is amendatory be and the same is hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,

Speaker of the House of Representatives.

T. J. GODFREY,

President pro tem. of the Senate.

Passed February 25, 1869.

AN ACT

To amend the twenty-third section of an act entitled "an act for the incorporation of townships."

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section twenty-three of an act entitled an

act for the incorporation of townships, be amended so as to read as follows:

Section 23. That each township treasurer be allowed and may retain two per centum of all moneys paid into the township treasury for receiving, safe keeping and paying over the same to the order of the trustees; but no money belonging to the township shall be paid over upon the order of the trustees or other person, until such order has been duly attested by the clerk of the proper township; and all township officers shall deliver over to their successors in office, all books, papers and obligations belonging to their respective offices or deposited with them under this act as officers of the township; and if any person who has been a township officer shall refuse to deliver over as aforesaid, any law books or papers, the property of the township, he or they so offending, shall, on conviction thereof, before any justice of the peace, be fined in any sum not less than five nor more than fifty dollars, for the use of the township.

Fees of treasurer.

Delivery of books to successors.

Penalty for failure.

SEC. 2. That section twenty-three of the above recited act be and the same is hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.

T. J. GODFREY,
President pro tem. of the Senate.

Passed February 25, 1869.

AN ACT

To prescribe and regulate the liabilities of parties and sureties on official and other bonds.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That in all cases where official bonds are now or shall hereafter be required to be given by and accepted from any officer in this state by the laws thereof, every such bond shall bind and render liable thereon, all the obligors of the same, both principals and sureties, though it may be signed and sealed by them when the penal amounts thereof are in blank, if such blanks be filled before or at the time of the due acceptance and approval of such bond, notwithstanding such filling up may be done in the absence of any or all of such obligors, and without any express authority of any kind from any of them so to fill up the same; provided that nothing in this act shall be so construed as to apply to any such bonds executed before its passage, and, provided further, that nothing contained in this act shall be so construed as to take away from any person, officer or board, any right or power they may now possess, to require all the parties to any

Liabilities of obligors of bonds.

Proviso.

such bond to be present before them at the time of its execution or acceptance.

Applicable to
executors,
administrators,
&c.

SEC. 2. That the provisions of the foregoing section one of this act shall apply to all executors, administrators and guardians' bonds; to all bonds required or authorized to be taken by or before any court, judge, public board or officer, judicial or ministerial; to all bonds of indemnity, and to all other bonds conditioned to become void on the performance by the parties thereto, of all the conditions and stipulations therein contained.

SEC. 3. This act shall take effect from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
T. J. GODFREY,
President pro tem. of the Senate.

Passed February 25, 1869.

AN ACT

To authorize the election of one additional judge of the court of common pleas, in the 2d sub-division of the 3d judicial district of the state of Ohio.

Additional
judge to be
elected.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That there shall be one additional judge of the court of common pleas in and for the third judicial district of the state of Ohio, who shall be a resident of the second sub-division thereof, and who shall be elected by the qualified electors of the counties of Allen, Anglaize, Putnam, Mercer and Van Wert, comprising said second sub-division.

First election

Regular
election.

SEC. 2. That the first election for said additional judge, shall be held on the first Monday in April, A. D. 1869, and his term of office shall commence on the second Monday in May thereafter, and which additional judge shall again be elected, at the annual election in October, A. D. 1873, and every five years thereafter, in the same manner and for the same term of office as is prescribed by the constitution and laws of the state of Ohio, for the election of other judges of said court.

Duty of
sheriffs.

SEC. 3. That it shall be the duty of the sheriff in each county, in said sub-division, at least fifteen days prior to said first Monday in April, 1869, to give notice by proclamation, as is now provided by law, of the time and place of holding such election, which shall be conducted, and the returns thereof made in the same manner as required by law in case of the election of judges of the court of common pleas.

Compensation
&c., of
judge.

SEC. 4. That said judge when elected and qualified, shall receive the same compensation as other judges of said court, and shall also, in every respect, have the same jurisdiction,

possess the same powers, discharge the same duties and incur the same penalties, as are now or may hereafter be enforced or enjoined by the constitution and laws of the state of Ohio, upon other judges of said court.

SEC. 5. That when a vacancy shall occur in the office of said additional judge, whether by the expiration of his term of office or otherwise, such vacancy shall be filled as in vacancies in the office of the other judges of said court.

Vacancy—
how filled.

SEC. 6. That this act shall be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,

Passed March 1st, 1869.

President of the Senate.

AN ACT

To amend section one of an act passed May 16, 1848, [1868], entitled an act to amend original sections six and seven of the act entitled an act relating to the organization of courts of justice, and their powers and duties, passed February 19, 1852.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section one of the act entitled "an act to amend original sections six and seven of the act entitled 'an act relating to the organization of courts of justice and their powers and duties,' passed February 19, 1852," passed May sixteen, 1868, be amended so as to read as follows:

Sec. 1. That original sections six and seven of the act entitled "an act relating to the organization of courts of justice and their powers and duties," passed February 19, 1852, be amended so as to read as follows:

Section 6. The supreme court shall have power to prescribe such rules for the regulation of its practice, the reservation of all questions, and the transmission of cases from the district court or court of common pleas to the supreme court, and remanding the same, as may not be inconsistent with the laws of this state; provided that all cases now or hereafter pending in said court shall be disposed of in the order in which they are entered on the docket thereof; that all cases originally brought in or taken to said court, by error or otherwise, shall be entered on the docket thereof in the order in which they are commenced, received or filed; and that no case shall be disposed of out of its order on said docket, except cases where the person seeking relief has been convicted of murder in the first degree, or of a crime the punishment of which is confinement in the penitentiary, or where such party is imprisoned in the penitentiary, or cases involving the validity of any tax levied or assessment made, or the power to

Rules of
practice, &c.,
of supreme
court.

make such levy or assessment, on the construction or constitutionality of any statute where the question or questions arising are of general public interest, or questions of practice in inferior courts, or proceedings in quo-warranto, mandamus procedendo or habeas corpus, or where a case is reached in its order and there are other cases on the docket involving the same questions or some of them. All such cases may be taken up and disposed of together.

Arguments
therein.

Sec. 7. In all cases pending in the supreme court, oral agreements [arguments] shall be heard when either party shall request it; but the agreements [arguments] of counsel may be transmitted to the court, in which case they shall be placed on file with the papers and read by the court in the investigation of the cause; provided, that in cases pending in said court in which the constitutionality of any law of this state may be involved, the court shall, upon motion, allow counsel not exceeding two in number, in addition to the counsel engaged by the parties in such cause, to be heard either orally or in writing, as such counsel may choose, in favor of the constitutionality of such law, where such counsel shall state professionally that they have been employed for such purpose.

Repeal.

Sec. 2. That said amended section one be and the same is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,

Speaker of the House of Representatives.

J. C. LEE,

President of the Senate.

Passed March 1st, 1869.

AN ACT

To authorize the election of an additional judge of the court of common pleas in the county of Cuyahoga.

An additional
judge to be
elected.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That for the fourth judicial district there shall be one additional judge of the court of common pleas, who shall be a resident of the third subdivision of said district, being the county of Cuyahoga, and who shall be elected by the qualified electors of said county at the annual election therein for township officers, on the first Monday in April, 1869, which election shall be held and the returns thereof made in accordance with the provisions of an act to regulate the election of state and county officers, passed May 3, 1852, and the acts amendatory thereof and supplementary thereto, whose term of office shall begin on the first Monday in May, 1869, and which additional judge shall be again elected at the annual election in October, 1873, and every five years there-

after, in the same manner and for the same term of office as is prescribed by the constitution and laws of the state of Ohio for the election of other judges of said court; and said judge, when elected and qualified, shall receive the same compensation as other judges of said court, and shall also in every respect have the same jurisdiction, possess the same powers, discharge the same duties, and incur the same penalties as are now or hereafter may be enforced or enjoined by the constitution and laws of the state of Ohio upon other judges of said court.

Compensation, powers, duties, &c.

SEC. 2. That when a vacancy shall occur in the office of such additional judge, such vacancy shall be filled as in vacancies in the office of the other judges of said court.

Vacancy.

SEC. 3. It shall be lawful for the judges of the court of common pleas of said third subdivision of the fourth judicial district, to hold the regular or special or adjourned terms of said court in the county of Cuyahoga in said district, at the same time sitting in different rooms at the county seat of said county. Said judges shall, at such times, divide the docket and assign to each such portion of the business thereon as they may think proper; and they shall make such rules and regulations for the government of the officers of said court and the proper and efficient transaction of the business of said court at such times as may be necessary.

Adjourned terms

Rules and regulations.

SEC. 4. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed February 24, 1869.

AN ACT

Supplemental to "an act to authorize the county commissioners to lay out and establish free turnpike roads, and to repeal certain acts therein named," passed April 15, 1867.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That in laying out and establishing free turnpike roads under and by virtue of the provisions of the act to which this is supplementary, it shall be lawful to lay out and establish the same, in whole or in part, upon the line of any state, county or township road, or upon any two or more of said roads.

Roads on state, county or township lines.

SEC. 2. This act shall take effect from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
T. J. GODFREY,
President pro-tem. of the Senate.

Passed February 27th, 1869.

AN ACT

To amend section thirty-two of an act entitled "an act for opening and regulating roads and highways," passed January 27th, 1853, as amended April 7th, 1865. (S. & C., p. 690 and 691.) [1297.]

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section thirty-two (32) of said act be amended so as to read as follows:

Viewers' report and proceedings thereon.

Sec. 32. That the viewers shall make a report in writing to the trustees, setting forth their opinion in full for or against the establishment of such road, and if the opinion of said viewers shall be in favor of the establishment of such road, the report shall state the width to which such road shall be opened, which shall not be less than fifteen nor more than sixty feet, together with a statement of the damages, if any, assessed to each person through whose land the road is proposed to be established; which report, together with a return and plat of the survey of said road, shall be deposited with the township clerk, who shall notify the trustees thereof; whereupon the trustees shall, at their next meeting, cause the said report to be read, and if the same be in favor of establishing said road, and the trustees deem it reasonable and just, they being satisfied that the damages, if any, have been claimed and assessed, have been paid or secured to be paid by the petitioner or petitioners, the clerk of the township shall enter the said report on record, and the trustees shall issue their order to the petitioner or petitioners, or any of them, to open said road to the width named in the report of said viewers, shall be considered a private or township road, subject to be kept open and in repair at the expense of the applicant or applicants for the same; provided, however, that any township road which commences in a state, turnpike, township or county road, and passes on and intersects another state, turnpike, county or township road, shall be opened and kept in repair by the supervisor in whose district any such township road may be situated in whole or in part, and the cost of the view and survey of such road shall be paid out of the township treasury; but if the viewers shall report that the prayer of the petition or petitioners is unreasonable and ought not to be granted, no further proceeding shall be had therein by said trustees; and all costs accruing under the provisions of this section, shall be paid by the person or persons making application for such road, except as hereinbefore provided.

Opening road.

Repairs.

Payment of expenses.

Repeal.

SEC. 2. That section 32 of the above recited act be and the same is hereby repealed.

SEC. 3. This act shall take effect from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed March 1st, 1869.

AN ACT

To define the duty of supervisors of roads in the state of Ohio, in removing timber or drift against bridges in their road district.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That it shall be the duty of the supervisor of each road district in the state of Ohio, to remove or cause to be removed all timber or drift lodged against all bridges, except toll bridges or bridges upon toll roads, in his road district. Duty to remove timber or drift.

SEC. 2. That the supervisor shall receive the same compensation for such work or duties performed, as is prescribed by law for other road work. Compensation.

SEC. 3. This act shall take effect from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed March 1, 1869.

AN ACT

To amend section seventeen of an act entitled "an act regulating descents and the distribution of personal estates," passed March 14, 1853.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section seventeen of the above recited act be so amended as to read as follows:

Section 17. Nothing in this act shall be so construed as to affect the right which any person may have to any estate by the courtesy or in dower, in any estate of any deceased person; and surviving husbands, whether there be issue born during the coverture or not, shall be entitled to the estate of their deceased wives by the courtesy; provided, however, that if any deceased wife shall leave issue or legal representative of such issue by a former marriage, her surviving husband shall not be entitled to an estate by the courtesy in the interest of such issue or the legal representatives of such issue in her estate, unless the estate came to the deceased wife by deed of gift from the surviving husband, or by devise or deed of gift from his ancestors. Courtesy and dower.

SEC. 2. That section seventeen of the above recited act be and the same is hereby repealed. Proviso as to legal issue.

SEC. 3. This act shall take effect on its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed March 1, 1869.

AN ACT

To authorize county commissioners to purchase toll bridges and make them free.

Commissioners may purchase toll bridges.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio.* That the commissioners of any county in this state, in which there is a toll bridge, be and they are hereby authorized to purchase the same at such price as may be agreed upon by such commissioners and the owners of such bridge.

May issue bonds, &c.

SEC. 2. The said commissioners are hereby authorized, when it shall be necessary, to issue the bonds of the county to secure the payment of the purchase money for such bridge, payable at such times, not later than five years from the date thereof, as they may prescribe; provided, that such bonds shall not be for a greater amount than five hundred dollars, with annual interest at the legal rate, and shall not be sold for less than their par value.

May collect taxes to pay bonds, &c.

SEC. 3. The said commissioners are also hereby authorized to cause to be levied and collected such tax, not exceeding one mill on the dollar's valuation of the taxable property of said county in any one year, as shall be necessary to pay the bonds issued in virtue of this act, as they may become due, together with the interest thereon.

SEC. 4. This act shall take effect on its passage.

F. W. THORNHILL,

Speaker of the House of Representatives.

T. J. GODFREY,

President pro tem. of the Senate.

Passed March 3d, 1869.

AN ACT

Making partial appropriation for the year 1869.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio.* That there be and is hereby appropriated from any moneys in the treasury belonging to the general revenue, for the purposes hereinafter named, the following sums:

Veteran bounties.
Military claims

For veteran bounties, five thousand dollars.

For military claims, including lost bounties, twenty thousand dollars.

Idiotic asylum

To pay deficiency in appropriation of 1868 to complete and furnish the new asylum for idiots, on account of deficiency in estimates of trustees for heating, grading, making roads, walks, &c., extra work on and about buildings, lead pipes to pumps, laundry, kitchen and bath house, with plumbing, gas works and superintendence, as reported by said trustees to

the general assembly, November 14, 1868, less the balance in the treasury subject to draft, twelve thousand eight hundred and ninety-six dollars and thirty-seven cents.

To pay the salaries of the warden and other officers and guards of the Ohio penitentiary, seventeen thousand dollars, and for provisions and current expenses, fifteen thousand dollars. Penitentiary.

To pay expenses of special and standing committees of the two houses, five hundred dollars. Legislative committees.

To pay deficiency in appropriation of 1868 for salaries of officers and teachers of the deaf and dumb asylum, on account of increase of teachers in said asylum, sixteen hundred and fifty dollars; and to pay deficiency in same appropriation for provisions and other necessary current expenses of said asylum, on account of the increase of pupils in said institution, the sum of six thousand five hundred dollars; and for provisions and current expenses of said institution in part for the present year, ten thousand dollars. Deaf and dumb asylum.

To pay for the care of the state house, one thousand dollars. Care of state house

SEC. 2. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed March 11th, 1869.

AN ACT

To amend section four hundred and thirty of the code of civil procedure.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section four hundred and thirty of the code of civil procedure be and the same is hereby amended so as to read as follows:

Section 430. The officer who levies upon goods and chattels by virtue of an execution issued by a court of record, before he proceeds to sell the same, shall cause public notice to be given of the time and place of sale, for at least ten days before the day of sale. The notice shall be given by advertisement published in some newspaper printed in the county, or in case no newspaper be printed therein, by setting up advertisements in five public places in the county, two of which shall be put up in the township where the sale is to be held. And where goods and chattels levied upon cannot be sold for want of bidders, or want of time, the officer making such return shall annex to the execution a true and perfect inventory of the goods and chattels remaining unsold, and the

Notice of
sale of goods
on execution.

Inventory
and vendi.
when goods
remain un-
sold.

When goods
may be sold
at private
sale.

plaintiff in such execution may thereupon sue out another execution directing the sale of the property levied upon as aforesaid; but such goods and chattels shall not be sold unless the time and place of sale be advertised as above directed. All sales of goods and chattels shall be at public auction; provided, that the court from which any execution or order of sale shall issue, or a judge thereof in vacation, may, on good cause shown, on application of either party and due notice to the adverse party, make an order directing the sheriff or other officer holding the process, to sell such goods and chattels at private sale for cash, specifying the time, not extending beyond the return day of the process during which such sale shall continue; provided, that before such private sale shall be made, the court shall order said personal property to be appraised by three disinterested persons, and the property shall not be so sold for less than two-thirds the appraised value thereof.

SEC. 2. That said original section four hundred and thirty be and the same is hereby repealed.

SEC. 3. This act shall take effect from and after its passage.

F. W. THORNHILL,

Speaker of the House of Representatives.

T. J. GODFREY,

President pro tem. of the Senate.

Passed March 12, 1869.

AN ACT

To amend the seventh section of the act entitled "an act to authorize the county commissioners to construct roads on petition of a majority of resident land owners along and adjacent to the line of said roads, and to repeal an act therein named," passed March 29, 1867. (O. L., vol. 64, page 80.)

Bonds to
raise money
to make im-
provements.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section seven of the above recited act be so amended as to read as follows:

Section 7. That for the purpose of raising the money necessary to meet the expenses of such improvement, the commissioners of the county are hereby authorized to issue the bonds of the county, payable in installments, or at intervals not exceeding in all the period of five years, bearing interest at the rate not to exceed seven per cent. per annum, payable semi-annually; which bonds shall not be sold for less than their par value; and the said assessment shall be divided in such manner as to meet the payment of principal and interest of said bonds, and to be placed upon the duplicate for taxation against the lands assessed, and collected in the same

manner as other taxes on real estate. County treasurers are hereby authorized and required to receive in payment of the taxes so assessed such county bonds as have been issued in payment of the construction of such roads, in the order in which they mature for payment, such bonds to be received only in payment of such installment of taxes as are collected for their payment or redemption, and when received by the county treasurer, shall be counted and received as funds from the county treasurer by the county commissioners; provided, that no bonds shall be received in payment of such taxes, unless such installment of taxes shall amount to a sum equal or greater than the amount due on such bond at the date of its presentation, which amount shall be endorsed on the bond, and receipted for by the party presenting the same. The money arising from said assessments shall be applied to no other purpose than the payment of bonds, interest accruing thereon, and the necessary expense arising under the provisions of the act to which this is amendatory; provided, that no bonds shall be delivered, or money paid to any contractor except on estimate of work done, as the same progresses or is contemplated, said road or improvement to be kept in repair as other state and county roads are.

Such bonds
receivable
for taxes.

Application
of money
arising from
assessments.

SEC. 2. That section seven of the original act is hereby repealed.

SEC. 3. This act shall be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
T. J. GODFREY,
President pro tem. of the Senate.

Passed March 15, 1869.

AN ACT

To amend section sixty-nine of an act entitled "an act to provide for the organization of cities and incorporated villages," passed May 3, 1852, as amended March 25, 1862, as amended April 29, 1862, and to repeal section one of the last named act. (O. L., vol. 59, p. 69.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section sixty-nine of an act entitled "an act to provide for the organization of cities and incorporated villages," passed May 3, 1852, as amended by the act passed March 25, 1862, as amended by the act passed April 29, 1862, be amended so as to read as follows:

Section 69. The qualified voters of each city of the second class shall, on the first Monday of April, 1869, and every second year thereafter, elect a city marshal, who shall hold his office for two years; a city solicitor, who shall hold his

Election of
marshal and
other city
officers.

Duties of
clerk.

Vacancy.

Repeal.

office for two years; and a city civil engineer, who shall hold his office for two years; and a city fire engineer, when said city has a paid steam fire department, who shall hold his office for two years; and a street commissioner, who shall hold his office for two years; and a city clerk, who shall hold his office for two years. Said clerk shall have the custody of all the laws and ordinances of the city, and shall keep a regular and correct journal of the proceedings of the council, and shall perform such other duties as may be required by the ordinances of the city. The clerk in office at the expiration of the term of service of any council, shall continue in office until his successor shall be elected and qualified. Provided that in case any charges shall be preferred against any officer elected under this act, for gross neglect of duty or incompetency, and said charges shall be sustained by a two-thirds vote of the council of any such city, said council shall have power to declare such office vacant, and shall, by a vote of two-thirds of all the members elected to such council, appoint a suitable person to fill such vacancy, until the next regular spring election, and until his successor shall be elected and qualified.

SEC. 2. That section one of an act entitled "an act to amend section sixty-nine of an act entitled 'an act to provide for the organization of cities and incorporated villages,' passed May 5, [5] 1852, as amended March 25, 1862," passed April 29, 1862, and all acts or parts of acts inconsistent with the provisions of this act, be and the same are hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
T. J. GODFREY,
President pro tem. of the Senate.

Passed March 15, 1869.

AN ACT

To provide for the publication of the number of horses, cattle, sheep, hogs and other animals returned for taxation.

State auditor
shall furnish
statement to
county audi-
tors.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the auditor of state be and he is hereby required to furnish annually hereafter, to the auditor of each county, a statement of the aggregate number of each of the following kinds of animals, to wit: Horses, neat cattle, sheep, hogs, mules and asses, and that said statement be so furnished by the auditor of state on or before the first day of August in each year, and that the statement for the year 1869 shall also include a like statement for the year 1868,

which statements the several county auditors shall furnish for publication in their several counties.

SEC. 2. To enable the auditor of state to make the above required statement full and complete, it shall be the duty of the several county auditors, on or before the first day of July in each and every year, to make out and transmit to the said auditor of state, an abstract of the number of animals enumerated in the first section of this act, as the same may have been returned to his office by the several assessors; and if any county auditor shall neglect or refuse to transmit to the auditor of state the abstract required by this act, he shall forfeit and pay to the state of Ohio the sum of fifty dollars for each and every such neglect or refusal.

Duty of
county audi-
tors.

SEC. 3. If, on the tenth day of July in any year, any county auditor shall have failed to transmit to the auditor of state the aforesaid abstract, it shall be the duty of said auditor of state to notify the prosecuting attorney of the proper county, of such delinquency, and such prosecuting attorney shall proceed by law to collect from such delinquent auditor the forfeiture aforesaid. The prosecuting attorney shall be entitled to retain ten per centum of the amount so collected as his fee, and the residue he shall forthwith pay into the state treasury, to be credited to the common school fund.

Prosecuting
attorneys to
prosecute del-
inquent
auditors, &c.

SEC. 4. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
T. J. GODFREY,
President pro tem. of the Senate.

Passed March 15, 1869.

AN ACT

To punish frauds in weighing live stock, hay, coal, grain and iron, or other commodities or articles of merchandise.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That any person or persons who shall knowingly and willfully sell, or direct, or permit any person or persons in his or their employ, to sell any commodity or article of merchandise, and make or give any false or short weight or measure, or any person or persons owning or keeping or having charge of any scales or steelyards for the purpose of weighing live stock, hay, grain, coal or other article, who shall knowingly and willfully report any false or untrue weight, whereby any other person or persons may be defrauded or injured, such person or person[s], upon conviction thereof, be fined in any sum not exceeding fifty dollars, or be

Penalty for
selling or
permitting
sale on false
weights, &c.

imprisoned in the jail of the county not exceeding thirty days, or both, at the discretion of the court, and also be answerable to the party defrauded or injured in double damages, to be collected in an action of debt before any court having competent jurisdiction.

Report or record of weights to be kept when required.

SEC. 2. That whenever the person or persons keeping such scales or steelyards shall weigh any of the aforesaid articles for hire or reward, he or they shall, on demand of the party interested, report the weight of such article or articles in writing to the owner thereof, and shall also keep a record of the same in a suitable book to be kept for that purpose.

SEC. 3. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
T. J. GODFREY,
President pro tem. of the Senate.

Passed March 15th, 1869.

AN ACT

Supplementary to an act entitled an act for the execution or supervision of the state printing and binding, passed March 24, 1860. (S. & C., page 1201.)

Agricultural report to be completed by first of September.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the commissioners of public printing shall so arrange in letting contracts for public printing, folding, stitching and binding, that the agricultural reports of the state shall be complete and delivered to the secretary of state by the first day of September in each year, and to be forwarded by him to each county for distribution as the law directs.

SEC. 2. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
T. J. GODFREY,
President pro tem. of the Senate.

Passed March 15, 1869.

AN ACT

To establish standard weights for lime and coke.

Legal weight of lime and coke.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That whenever lime or coke is sold, and no special agreement as to the measure is made by the contract-

ing parties, the bushel shall consist of seventy pounds of lime and forty pounds of coke.

SEC. 2. This shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
T. J. GODFREY,
President pro tem. of the Senate.

Passed March 15th, 1869.

AN ACT

To punish certain offenses therein named.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That if any clerk, agent or servant of any private person, or of any copartnership (except apprentices and persons within the age of eighteen years), or if any officer, agent, clerk or servant of any incorporated company or joint stock company, shall embezzle or convert to his own use, or fraudulently take or make away with or secrete with intent to embezzle, or fraudulently convert to his own use without the assent of his or her employer or employers or the owner or owners thereof any money, goods, rights in action or other valuable security or effects whatever belonging to any other person or persons, body politic or corporate, which shall come into his or her possession or care by virtue of such employment, or if any officer elected or appointed to any office of public trust in this state, shall embezzle or convert to his own use any money, property, rights in action or other valuable security or effects whatever, belonging to any individual, company or association, that shall come into his possession by virtue or under color of his office, shall, upon conviction, be punished in the manner prescribed by law for feloniously stealing property of the value of the article so embezzled, taken or secreted, or of the value of any sum of money payable and due upon any right in action so embezzled.

Embezzle-
ment by
clerk, agent,
servant, &c.,
to be punish-
ed as theft.

SEC. 2. That section two of an act entitled an act for the prosecution and punishment of crimes therein named, passed March 24, 1864, be and the same is hereby repealed; provided, that all offenses committed prior to the taking effect of this act shall be prosecuted and punished in the same manner as if this act had never been passed.

Section
repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
T. J. GODFREY,
President pro tem. of the Senate.

Passed March 15, 1869.

AN ACT

Supplementary to the act entitled "an act to provide for the settlement of the estates of deceased persons," passed March 23, 1840. (S. & C., 566.)

How estate
of deceased
person shall
be sold.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That whenever letters testamentary or of general or special administration on the estate of any deceased person, shall have been or may be granted by the probate court of any county in this state, and the probate court granting such letters shall be satisfied, upon good and sufficient proof, that it would be for the advantage of the estate of the decedent to sell any part of said personal estate not taken by the widow at the valuation made by the appraisers as provided in section seventy-one of the act to which this is supplementary, at private sale, or to extend the time of sale, said court may authorize such executor or administrator to thus sell personal estate, or any part or parcel thereof, at private sale, either for cash or upon such other terms as said court may in its discretion direct, or said court may order an extension of the time of sale; but such executor or administrator shall not be authorized to sell such property at less than its appraised value, unless the probate court aforesaid shall be satisfied by the affidavit of at least three disinterested persons that such property cannot be sold at its appraised value, and that it will be for the best interest of the estate to sell the same at a less value, in which case such court may authorize such executor or administrator to sell the same for a less amount; nor shall such executor or administrator, either directly or indirectly, become the purchaser thereof. Should any property thus ordered to be sold at private sale, be not sold within six months from the time of such order, then said probate court may order the same to be sold at public auction in the same manner as though a private sale had not been ordered.

No executor
or adminis-
trator to be
purchaser.

SEC. 2. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
T. J. GODFREY,
President pro tem. of the Senate.

Passed March 17, 1869.

AN ACT

Supplementary to "an act to provide for locating, establishing and constructing ditches, drains and water-courses," passed March 27, 1861. (O. Laws, volume 58, page 49.)

County com-
missioners to SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That in all cases of proceedings had, or to be

had, or under progress of being had, pursuant to the act to which this act is supplementary, and amendments thereof heretofore made, or hereafter to be made, if it shall be made to appear to the county commissioners that the health of the people of any city or town, in the vicinity of the ditch, drain or water-course proposed to be established and constructed, will be promoted thereby; or that the health of the people of any part or portion of said city or town will be so promoted, it shall be the duty of the said commissioners to find, according to the truth, whether the health of the people of said city or town, generally, or of only a part or portion thereof, specifying the same, will, in their opinion, be so promoted. And in such case it shall be the duty of said commissioners, if said ditch, drain or water-course shall be by them ordered to be established, to order and direct what part or proportion of the estimated cost of constructing the same, and of the incidental expenses thereof, is, or shall be equitably and justly chargeable to the owners of lots, lands or other real estate, situate in said city or town, or part or portion thereof, to be benefited as aforesaid; and said amount, part or proportion of said estimated costs and expenses, shall, by the auditor of the county be apportioned to and amongst the owners of said lots, lands or other real estate so chargeable therewith as aforesaid, in the same equitable proportion, regard being had to the value thereof, as the same appears on the tax duplicate of the county for the general purposes of taxation, as the same property is, or shall be subject to be assessed for state or county taxes; and shall be by him entered upon the tax duplicate and be collected as prescribed by law for the collection of taxes; and the amount so collected shall be applied, under the order and direction of the said commissioners, in payment of an equal amount, less the fees and expenses for collecting the same, in part payment of the said costs and expenses of establishing and constructing said ditch, drain or water-course; and the amount so paid shall be deducted by [from] the gross amount of said costs and expenses, and the balance, only, be assessed, collected, paid, and applied, in money or by the performance of labor in the way of constructing said ditch, drain or water-course, as prescribed by the act to which this is supplementary.

SEC. 2. That it shall be the duty of the said commissioners, whenever in their opinion the establishing and constructing any ditch, drain or water-course, will promote the interest of the county in the constructing of any bridge, or other public work, the duty of constructing which, is, by law, to be at the expense of the county, to contribute out of any funds belonging to the county, not otherwise appropriated, such equitable part or proportion of the cost and expenses thereof, as shall be in proportion to the interest accruing to the county, to be fixed and ascertained, as may be ordered and prescribed by the commissioners, to be deducted from the amount which would otherwise be chargeable and be collected as taxes pursuant to the provisions of the act to which this is supplementary.

inquire as to effect of ditches, drains, &c., on health of inhabitants.

Their duty as to costs and expenses.

The same

Money,
labor, &c., to
be refunded
in certain
cases.

SEC. 3. That, if it shall have happened that, in the progress of any improvement which remains uncompleted at the time of the passage of this act, any person or persons shall have paid in money or labor, any amount assessed against him or them in excess of the amount which, upon the footing of this act, would be chargeable to them, such excess shall be refunded to them out of any money coming into the county treasury under the provisions of this act upon the order of the county auditor, who is hereby authorized and required to audit, settle and allow, or shall disallow, as may be equitable, such claims as may be presented within six months after the same shall have accrued, under this section.

SEC. 4. This act shall take effect from and after its passage.

F. W. THORNHILL,

Speaker of the House of Representatives.

T. J. GODFREY,

President pro tem. of the Senate.

Passed March 17th, 1869.

AN ACT

To amend section twenty-four of an act entitled "an act to provide for the creation and regulation of incorporated companies in the State of Ohio," passed May 1, 1852. (Swan and Critchfield, pages 281 and 282.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section twenty-four of the above entitled act be amended to read as follows:

Any railroad
may aid an-
other in the
construction
of its road.

—or lease or
purchase an-
other road.

Two or more
roads may
arrange for
their mutual
benefit.

Provido as to
consent of
stockholders.

Section 24. Any railroad company heretofore or hereafter incorporated, may, at any time, by means of subscription to the capital of any other company, or otherwise, aid such company in the construction of its railroad, within or without the State, for the purpose of forming a connection of said last mentioned road with the road owned by the company furnishing said aid; or any railroad company organized in pursuance of law either within this or any other State, may lease or purchase any part or all of any railroad, the whole or a part of which is in this State, and constructed, owned or leased by any other company, if said companies' lines of said road are continuous, or connected at a point either within or without this State, upon such terms and conditions as may be agreed on between said companies respectively; or any two or more railroad companies whose lines are so connected, may enter into any arrangement for their common benefit, consistent with and calculated to promote the objects for which they were created; provided that no such aid shall be furnished, nor any purchase, lease, sub-letting or arrangements perfected until a meeting of the stockholders of said company of this state, party to such agreement, whereby a railroad in this

state may be aided, purchased, leased, sub-let or affected by such arrangement, shall have been called by the directors thereof, at such time and place, and in such manner as they shall designate, and the holders of at least two-thirds of the stock of such company represented at such meeting, in person or by proxy, and voting thereat, shall have assented thereto; and, provided further, that if a railroad company of another state shall lease a railroad, the whole or a part of which is in this state, or make any arrangement for operating the same, as provided in this act, such part of said railroad as is within this state shall be subject to taxation, and shall be subject to all regulations and provisions of law governing railroads in this state, and such other provisions of law as have been or may be enacted for the government of such railroads as do, or shall, by consolidations, or any of the other means provided by law, form part of a continuous line of road from a point in one of the states of the United States into this state, or through this state to a point in another state; and a corporation in this state leasing its road to a corporation of another state, shall remain liable to all parties as if it operated the road itself; and a corporation of another state being the lessee of a railroad in this state, shall likewise be held liable for any violation of the laws of this state, and may sue and be sued in all cases, and for the same causes, and in the same manner as a corporation of this state might sue or be sued if operating its own road; but a satisfaction of any claim or judgment, by either of said corporations, shall discharge the other; and a corporation being the lessee, as aforesaid, shall establish and maintain an office in this state, at some point on the line of the railroad so leased, at which legal process and notice may be served as at the general office of a railroad company of this state; provided further, that it shall be regarded as one of the conditions upon which a railroad company of another state may lease or purchase a railroad, the whole or any part of which is in this state, or make any arrangement for operating the same under the provisions of this section, that such railroad company of another state thereby waives the right to remove any case from any of the courts of this state to any of the courts of the United States, or to bring a suit in any of the courts of the United States against any citizen of this state; and a violation of such condition shall operate as a forfeiture of all rights acquired under such lease, purchase or arrangement.

SEC. 2. That said original section twenty-four be and the same is hereby repealed; and this act shall take effect on its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
 T. J. GODFREY,
President pro tem. of the Senate.

Passed March 19, 1869.

Proviso as to
taxation.

Liability for
violation of
laws, &c.

Satisfaction
by one party
shall dis-
charge the
other.

Office of leas-
ing party.

Waiver of
right to re-
move any
case from the
courts of this
state.

Repeal.

AN ACT

Making partial appropriations for the year 1869.

Appropriations.	SECTION 1. <i>Be it enacted by the General Assembly of the State of Ohio</i> , That there be and is hereby appropriated from any money in the treasury belonging to the general revenue, for the purposes hereinafter named, the following sums :
N. O. L. Asylum.	For the current expenses of the northern Ohio lunatic asylum, fifteen thousand dollars.
S. O. L. Asylum.	For the current expenses of the southern Ohio lunatic asylum, twenty-five thousand dollars.
Blind Asylum.	For the current expenses of the blind asylum, six thousand dollars.
Idiotic Asylum.	For the current expenses of the asylum for idiots, nine thousand dollars. For salaries of officers and teachers of the idiot asylum, one thousand dollars.
General Assembly.	For the per diem and mileage of the members of the general assembly, and the per diem of their clerks, and other officers, under the laws and the resolutions of the senate and house of representatives respectively, fifty thousand dollars. For the contingent expenses of the general assembly, five hundred dollars, to be paid upon vouchers approved by the president of the senate and speaker of the house of representatives respectively.
Night watch.	For the night watch of the treasury and state house, two hundred dollars.
Prosecution, &c. of convicts.	For the costs of prosecution and transportation of convicts to the Ohio penitentiary, nine thousand dollars.
Contingent expenses of state officers.	For the necessary contingent expenses of the following officers, to wit: Auditor of state, one thousand dollars. Treasurer of state, five hundred dollars. Secretary of state, four hundred dollars. Comptroller of the treasury, three hundred dollars. State school commissioner, two hundred dollars. State librarian, one hundred dollars. Supreme court, two hundred dollars. For the necessary expenses of the insurance department, one thousand dollars.
Salaries of state officers.	For the salaries of certain state officers and others, as follows : for the governor, lieutenant-governor, auditor of state, treasurer of state, secretary of state, comptroller of the treasury, state commissioner of common schools, attorney general, clerk of the supreme court, private secretary of the governor, state librarian, law librarian, commissioner of railroads and telegraphs, supervisor of public printing, and superintendent of the state house, seven thousand dollars.
Clerks' salaries.	For salaries of clerks in the following offices, to wit: Auditor's office, twenty-eight hundred dollars. Treasurer's office, thirteen hundred dollars. Secretary's office, nine hundred dollars. Comptroller's office, nine hundred dollars. State school commissioner's office, five hundred dollars.

Railroad commissioner's office, three hundred dollars.

Adjutant general's office, fifteen hundred dollars.

For stationery, including printing paper and other articles for the use of the general assembly and public offices, nine thousand dollars. Stationery.

For gas consumed in the state house, five hundred dollars.

For engineer, laborers and other expenses of the heating apparatus of the state house, five hundred dollars. Gas, &c., in state house.

For the current expenses of the state reform farm school, eight thousand dollars. Reform school.

For the salaries of officers of the state reform farm school, three thousand dollars.

For expenses of the trustees of the benevolent institutions, including necessary expenses of the board of state charities, one thousand dollars. Trustees of benevolent institutions.

For expenses of legislative committees, to be paid upon the certificate of the chairman of each committee, one thousand dollars. Legislative committees.

To pay Robert Clark & Co., of Cincinnati, for five thousand volumes of Swan & Saylor's supplement to the revised statutes of Ohio, purchased by the secretary of state, under the joint resolution of the general assembly, passed May 7, 1868, twenty-two thousand five hundred dollars: Robert Clark & Co.

For care of state house and grounds, one thousand dollars. State house.

SEC. 2. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.

T. J. GODFREY,
President pro tem. of the Senate.

Passed March 19, 1869.

AN ACT

To amend section three of "an act for the appointment of certain officers therein named," passed February 17, 1831, as amended March 27, 1858. (S. & C., p. 500.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section three of an act entitled "an act for the appointment of certain officers therein named," passed February 17, 1831, and the act amendatory thereof, passed March 27, 1858, (S. & C., page 500) be amended to read as follows:

SEC. 3. That the sheriff of any county may appoint, in term time or vacation, one or more deputies, to be approved by any judge of the court of common pleas of such county; and the oath which such deputy is required to take by the fifth section of this act, may be administered by any officer authorized to administer oaths within such counties; that the deputy (or deputies) so appointed by the sheriff, shall not be an acting Sheriff may appoint deputies. A deputy shall not be a

justice or
mayor.

justice of the peace, or mayor, in the county where he is appointed to act as deputy; and it is hereby declared unlawful for any judge of the court of common pleas in any county to approve of any person as deputy sheriff when such appointee is an acting justice of the peace or mayor. The recorder of any county may also appoint a deputy, to be approved by the court of common pleas of such county, and the auditor of any county may appoint a deputy, to be approved by the commissioners of such county; provided, that the court or county commissioners (as the case may be,) be satisfied that the duties of recorder or auditor require such deputy.

Recorder or
auditor may
appoint a
deputy.

Repeal.

SEC. 2. That said section three of the above recited act is hereby repealed, and that this act take effect from its passage.

F. W. THORNHILL,

Speaker of the House of Representatives.

T. J. GODFREY,

President pro tem. of the Senate.

Passed March 15, 1869.

AN ACT

Supplementary to the act to provide for the creation and regulation of incorporated companies in the state of Ohio, passed May 1, 1852. (S. & C., p. 271.)

When plank-
road may be
condemned
and appro-
priated as
streets.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That when heretofore or hereafter by reason of the extension, enlargement or creation of the corporate limits of any city, town or village in which any plankroad terminates, any portion of such plankroad is included therein so as to bring within such limits or within eighty [rods] thereof any toll gate previously erected by such plankroad company, so much of said plankroad as is so included within said limits, shall be and become a public street of said city, town or village, and shall be maintained and kept in repair as other streets, but no toll shall be collected thereon; and the said city, town or village shall cause the same to be condemned and appropriated for use as such, according to the laws regulating the appropriation and condemnation of private property for similar uses, being liable in a civil action at the suit of such company for the value of their interest in such portion of said road.

SEC. 2. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,

Speaker of the House of Representatives.

J. C. LEE,

President of the Senate.

Passed March 23, 1869.

AN ACT

To amend an act entitled "an act to amend the twenty-ninth section of an act entitled an act for the incorporation of townships, passed March 14, 1853, as amended and took effect April 29, 1854," passed March 20, 1866, as amended April 8, 1868. (O. L., vol. 65, page 68.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section twenty-nine of the above recited act, as amended April 8, 1868, be so amended as to read as follows:

Section 29. That it shall be lawful for the trustees of any township of any county in this state, to purchase, fence, protect and improve all such lands in one or more places within such township as they may deem necessary and proper for cemetery purposes therein; and for the purpose of paying the purchase price of such lands, and the necessary expenses of fencing, protecting and improving the same, they are hereby authorized to levy and assess upon the taxable property of such township, such a per centum as will raise any sum not exceeding two thousand dollars in any one year, until the whole of the purchase money with the interest due thereon shall have been paid; and also to levy and assess a tax of not exceeding one mill on the dollar of the taxable property of such township in any one year, to be applied to the fencing, protecting or improvement of such lands or any grounds for cemetery or burial purposes that shall have been, or may hereafter be set apart, appropriated or dedicated for such purposes, and over which such trustees shall have control. That it shall be the duty of the coroner of any county to bury such dead persons as he may hold an inquest upon, and who have left no means wherewith to pay the expenses of their burial, in the cemetery or burying ground of that township wherein such inquest may be held, and the necessary expenses of such burial shall be allowed and paid by the township trustees; and the coroner shall be allowed for his services under this section, by the trustees of the proper township, fifty cents for each person so buried.

SEC. 2. That said act passed April 8, 1868, (Ohio Laws, vol. 65, page 68); also the act passed May 14, 1868, (Ohio Laws, vol. 65, pages 203, 204,) entitled an act to amend the twenty-ninth section of an act entitled an act for the incorporation of townships, passed March 14, 1853, as amended and took effect March 20, 1866, be and the same is hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. O. LEE,
President of the Senate.

Passed March 23, 1869.

Township trustees may purchase and improve lands for cemeteries.

—and may levy tax for same, of two thousand dollars a year, &c.

Certain persons shall be buried at expense of township.

Allowance to coroner.

Repeal.

AN ACT

To amend an act entitled "an act to revive section twenty-three of the act entitled 'an act to provide for the reorganization, supervision and maintenance of common schools,'" passed March 11, 1853, as amended by the act passed April 12, and took effect May 1, 1858, and to repeal the act to provide for the organization, supervision and maintenance of common schools, passed February 21, 1867, passed March 26, 1868. (Ohio Laws, vol. 65, page 34.)

Section
revived.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section twenty-three of the act entitled "an act to provide for the reorganization, supervision and maintenance of common schools," passed March 11, 1853, as amended by the act entitled an act to amend section twenty-three of the act entitled an act to provide for the reorganization, supervision and maintenance of common schools, passed March 11, 1853, passed April 12, and took effect May 1, 1858, (S. & C., 1354) be and the same is hereby revived as follows:

Powers of
board of
education in
certain
cases.

SEC. 23. The township board of education shall have power, when, in their opinion, justice and equity require it, to estimate separately the cost of purchasing a school house site, and erecting or repairing a school house thereon, in any particular sub-district of the township, wherein the inhabitants have not heretofore borne a reasonable share of the burden of taxation for such purpose in comparison with other sub-districts in the township, and certify such portion as they may deem just and equitable of the amount of such estimate to the county auditor of the proper county, together with a map of the lands, and names of the tax-payers in any such sub-district, which amount so certified, shall be assessed by the auditor on the property therein subject to taxation, and placed on the county duplicate specially, and be collected and paid over in the same manner as other school taxes and be applied for the specific purpose of providing a school house in such sub-district; provided, that such tax shall not be levied in any sub-district wherein the same has been heretofore levied, nor in any case shall it be assessed more than once in the same sub-district; and further provided, that such tax shall not be assessed in any sub-district which may be hereafter created, unless the said sub-district shall be composed in whole of territory upon which such tax has not heretofore been levied.

Act repealed.

SEC. 2. That the act entitled "an act to provide for the organization, supervision and maintenance of common schools," passed February 21, 1867, passed March 26, 1868, S. and S., 718, be and the same is hereby repealed; provided such repeal shall not affect rights acquired or proceedings pending under said act.

SEC. 3. This act to take effect and be in force from and after its passage.

A. T. WALLING,
Speaker pro tem. of the House of Representatives.

J. C. LEE,
President of the Senate.

Passed March 30th, 1869.

AN ACT

To amend sections two and four of an act entitled an act to authorize associations of persons for carrying freight on any navigable waters of the state of Ohio, and the lakes and navigable rivers bordering thereon, passed April 2, 1859, and section four of said act as amended March 6, 1866.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That sections two and four of the above named act be amended to read as follows:

Section 2. That any number of persons as aforesaid, associating themselves together for the purpose of transporting freight or for towing purposes on any of the navigable rivers in the state of Ohio, and any of the lakes and navigable rivers bordering thereon, shall, under their hands and seals, make a certificate, which shall specify as follows: First, the name assumed by such company or association, and by which it shall be known; second, the name of the county or place where the principal office of such company is situate; third, the amount of capital stock, not to be less than two thousand dollars, and the amount of each share. Such certificate shall be acknowledged before a justice of the peace or other proper officer, and shall be forwarded to the secretary of state, who shall record and carefully preserve the same in his office, and a copy thereof, duly certified by the secretary of state, under the great seal of the state of Ohio, shall be evidence of such corporation or company.

Certificate
of incor-
poration.

Acknowl-
edgment.

Section 4. Any company or association, organized for the purposes aforesaid, shall have power to build, purchase and hold such number of steamboats, barges or other vessels, and such other personal property (and such real estate in Ohio and other states) as may be deemed necessary for commencing and conducting the business of the association, and shall have power to sell the same, or any part thereof, in such manner and for such purpose as may be prescribed by the rules and regulations of the company, and not inconsistent with the laws of this state; and said company shall have power to carry any articles of freight or produce, tow any barge or other vessel upon any of the navigable streams in the state of Ohio, and on any of the lakes and navigable rivers bordering thereon, and shall be governed by the same laws, not inconsistent with this act, which govern individuals in such employments.

Powers, &c.

Repeal.

SEC. 2. Sections two and four of the above named act are hereby repealed.

SEC. 3. This act shall take effect from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed April 3, 1869.

AN ACT

Providing for a geological survey of Ohio.

Chief geologist and assistants.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the governor is hereby required to appoint, by and with the advice and consent of the senate, a chief geologist, who shall be a person of known integrity and competent practical and scientific knowledge of the sciences of geology and mineralogy; and upon consultation with said chief geologist and the like concurrence of the senate, the governor shall appoint one or more suitable assistants, not exceeding three in number, one of whom shall be a skillful analytical and agricultural chemist, the said chief geologist and assistants to constitute a geological corps; whose duty it shall be to make a complete and thorough geological, agricultural and mineralogical survey of each and every county in the state.

Objects of survey.

SEC. 2. The said survey shall have for its objects:

1st. An examination of the geological structure of the state, including the dip, magnitude, number, order and relative position of the several strata, their richness in coals, clays, ores, mineral waters and manures, building stone and other useful materials, the value of such materials for economic purposes, and their accessibility for mining or manufacture.

2d. An accurate chemical analysis and classification of the various soils of the state, with the view of discovering the best means of preserving and improving their fertility, and of pointing out the most beneficial and profitable modes of cultivation. Also a careful analysis of the different ores, rocks, peats, marls, clays, salines, and all mineral waters within the state.

3d. To ascertain by meteorological observations the local causes which produce variations of climate in the different sections of the state. Also to determine by strict barometrical observations the relative elevation and depression of the different parts of the state.

Duties of chief geologist.

SEC. 3. It shall be the duty of the said chief geologist in the progress of the examinations hereby directed, to collect such specimens of rocks, ores, soils, fossils, organic remains and mineral compounds, as will exemplify the geology, mineralogy and agronomy of the state; and he shall deposit said spe-

cimens, accurately labeled and classified, in a room provided by the state board of agriculture, to be carefully preserved under the supervision of said board.

SEC. 4. It shall be the duty of the chief geologist, on or before the first Monday in January of each year, during the time occupied in said survey, to make a report to the governor of the results and progress of the survey, accompanied by such maps, profiles and drawings as may be necessary to exemplify the same, which reports the governor shall lay before the general assembly.

Annual report.

SEC. 5. When the said survey shall be fully completed, the chief geologist shall make to the governor a final report, including the results of the entire survey, accompanied by such drawings and topographical maps as may be necessary to illustrate the same, and by a single geological map, showing by colors and other appropriate means, the stratification of the rocks, the character of the soil, the localities of the beds of mineral deposits, and the character and extent of the different geological formations.

Final report.

SEC. 6. The annual appropriations which may be made by the general assembly for carrying out the provisions of this act, shall be expended under the direction of the governor upon the certificate of the chief geologist, approved by the governor, and the warrant of the auditor of state, as follows:

Expenditure of appropriations.

For salary of chief geologist, three thousand dollars.

For salaries of assistants, not more than eighteen hundred dollars each.

For chemicals, five hundred dollars.

For contingent expenses of the survey, including actual traveling expenses of the geological corps, and hire of local assistants, five thousand dollars.

SEC. 7. No money shall be paid for the purposes of said survey until the chief geologist and his assistants shall have entered upon the discharge of their duties as prescribed by this act.

Limit of expenditure.

SEC. 8. The survey shall be commenced by the first of June next, or as soon thereafter as practicable, and shall be completed within three years from and after the time of its commencement.

Time specified.

SEC. 9. This act shall take effect and be in force from and after its passage.

A. T. WALLING,

Speaker pro tem. of the House of Representatives.

J. C. LEE,

President of the Senate.

Passed April 3d, 1869.

AN ACT

To amend section three hundred and seven of the code of civil procedure. (S. & C., page 1035.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section three hundred and seven of the code of civil procedure be so amended as to read as follows :

Order in
which cases,
&c., shall be
tried.

Section 307. The trial of issues of fact and the assessment of damages in any case, shall be in the order in which they are placed on the trial docket, unless by consent of the parties or the order of the court they are continued or placed at the heel of the docket. In actions for the recovery of money only, in which a jury shall not be required to assess the damages, and in proceedings in foreclosure, judgment may be entered at any time during the term after the defendant is in default for want of an answer, but the court may, on motion, and for good cause shown, give further time for filing an answer. The time of hearing all other cases shall be in the order in which they are placed on the docket, unless the court in its discretion shall otherwise direct. The court may, in its discretion, hear at any time a motion, and may by rule prescribe the time for hearing motions.

Repeal.

SEC. 2. That section three hundred and seven of the code of civil procedure, be and the same is hereby repealed. This act shall take effect and be in force from and after its passage.

A. T. WALLING,
Speaker pro tem. of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed April 3rd, 1869.

AN ACT

To amend section one hundred and one of the act entitled "an act of the jurisdiction and procedure before justices of the peace, and of the duties of constables in civil courts," passed March 14, 1853. (S. & C., volume 1, page 787.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section one hundred and one of the above recited act, be so amended as to read as follows :

Service of
notice.

Section 101. When a constable shall levy on or attach property claimed by any person or persons, other than the party against whom the execution or attachment issued, the claimant or claimants shall give three days' notice in writing,

to the plaintiff or his agent, or if not found within the county, then such notice shall be served by leaving a copy thereof at his usual place of abode in such county, of the time and place of the trial of the right to such property, which trial shall be had before some justice of the county, at least one day prior to the time appointed for the sale of such property.

Notice of
time and
place of trial.

SEC. 2. That section one hundred and one of the act to which this is amendatory, be and the same is hereby repealed.

Repeal.

SEC. 3. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed April 3, 1869.

AN ACT

To repeal an act entitled an act defining the jurisdiction of the probate court in the counties of Putnam and Paulding, in minor criminal cases, passed March 9, 1866. (63 O. L. 35.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the above entitled act granting jurisdiction, in minor criminal cases, to the probate courts of Paulding and Putnam counties, be and the same is hereby repealed; provided, that nothing herein contained shall in any manner affect any cause or causes now pending in said courts, or the rights and liabilities of any person or persons held to answer in said courts previously to the time of the taking effect of this act, but that the same shall proceed in the same manner as if this act were not in force.

Repeal.

Proviso.

SEC. 2. This act shall take effect and be in force from and after the 15th day of April, A. D. 1869.

A. T. WALLING,
Speaker pro tem. of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed April 3rd, 1869.

AN ACT

To authorize the election of an additional judge of the court of common pleas in the first sub-division of the fourth judicial district.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That there shall be an additional judge of the

An additional
judge to
be elected.

court of common pleas for the fourth judicial district of this state, who shall be a resident of the first sub-division of said district, composed of the counties of Lucas, Ottawa, Sandusky, Huron and Erie, to be elected by the qualified electors of said counties as herein provided.

When to be
elected.

SEC. 2. That the first election of such additional judge shall be held at the next general election for state and county officers, to be held on the second Tuesday in October, A. D. 1869, in the same manner and for the same time as is now prescribed by law for the election of other judges of the court of common pleas; and such additional judge shall enter upon his duties as soon after his election as he shall be qualified therefor.

Powers,
duties, &c.

SEC. 3. That such additional judge shall be qualified in the same manner and shall have in all respects the same power and discharge the same duties as are or may be conferred, and required by the constitution and laws of this state, upon other judges of said court; and he shall be entitled to receive the same salary as other judges of the court of common pleas.

SEC. 4. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed March 24th, 1869.

AN ACT

To authorize certain cities of the second class to fund their indebtedness and extend the time of its payment.

Certain
cities may
issue bonds,
&c., for cer-
tain pur-
poses.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the city council of any city of the second class having a population exceeding twenty thousand and not exceeding twenty thousand one hundred at the last federal census, for the purpose of extending the time of payment of any indebtedness heretofore incurred, and which from its limit of taxation such city is unable to pay at maturity, shall have the power to issue the bonds of such city and to borrow money thereon so as to change but not increase the indebtedness, in such amounts and for such length of time, and such rate of interest not exceeding eight per cent. per annum, payable semi-annually, as such city council may determine; and when such bonds shall have been authorized and issued, a tax shall be assessed and collected sufficient in amount to provide a sinking fund for their final redemption, as provided by law.

SEC. 2. That this act shall take effect from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed April 2d, 1869.

AN ACT

To empower the treasurers and auditors of the several counties in the state of Ohio, which have paid, or shall pay to the state, their respective portions of the surplus revenue, to collect and pay into the treasury any portion of said fund belonging to such county; and authorizing the commissioners of such county to transfer the same to any fund or funds of such county.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the treasurer and auditor of any county, which has paid to the state its portion of the surplus revenue fund, be and they are hereby authorized to collect by suit or otherwise, all of said fund outstanding belonging to said county, and pay the same into the county treasury, as hereinafter provided.

Treasurer and auditor of county to collect surplus revenue fund.

SEC. 2. It shall be the duty of the commissioners of any such county as aforesaid, to decide whether such surplus revenue fund shall be collected or not. If they shall decide that such fund shall be collected, they shall so order, and such order shall be duly entered upon their journal; and when such order is so made and entered, it shall be the duty of the treasurer and auditor of such county as aforesaid, to give notice to the person or persons who may be so indebted to such county, that payment will be required of them, and in manner as follows, to wit:

Commissioners to decide as to such collection, &c.

The first installment in twelve months from the date of such notice, and the second installment in twelve months thereafter.

SEC. 3. Notice to the person or persons indebted as aforesaid, shall be given within thirty days from the date of the order, as made by the commissioners as aforesaid upon the journal, and shall be in writing, directed to the postoffice nearest the residence of the person so notified; and the treasurer and auditor for each notice so given shall be entitled to receive, and shall be paid upon the order of the commissioners, twenty-five cents for each notice so given, and no other compensation shall be allowed to such treasurer and auditor for their services in such collection as aforesaid.

Notice to debtors.

SEC. 4. The prosecuting attorney of each county as aforesaid, shall, and is hereby required to give his legal attention

Duty of prosecuting attorneys.

to such collections of said fund as aforesaid as may be required to be made by the foreclosure of mortgages or otherwise, and for his services so rendered shall be entitled to receive such compensation as the commissioners of such county may determine, not to exceed two per cent. on the amount so collected.

Commissioners may transfer said fund to any other fund.

SEC. 5. The commissioners of any such county are hereby authorized and empowered to transfer all or any portion of said fund, when collected, to any fund which they may think best for the interests of said county.

SEC. 4. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed April 7th, 1869.

AN ACT

Supplementary to the act to provide for the regulation of incorporated companies in the state of Ohio, passed May 1, 1852.

Turnpike companies may receive tolls, &c., in certain cases.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That whenever any turnpike company in this state, organized under the provisions of the aforesaid act, or of a special charter, shall have constructed its road, having been licensed by the county commissioners as directed by law, and shall have collected tolls thereon for ten years or upward, it shall be lawful for said company to demand and receive such tolls thereon as are authorized by law, although said turnpike road may not have been constructed, nor now is, in exact conformity as to grade with the laws regulating the same; provided, said grade does not exceed seven degrees.

SEC. 2. This act shall take effect and be in force from and after its passage.

J. R. COCKERILL,
Speaker pro tem. of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed April 12, 1869.

AN ACT

Supplementary to an act passed April 17, 1867, entitled "an act supplementary and amendatory to the act relating to juries," (S. & C., 410) and to repeal section one of the act entitled "an act supplementary to the act relating to juries," passed February 9, 1831, and to amend the ninth section of said act, passed March 9, 1859. (S. & C., page 760.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That whenever in any county in this state it shall appear that the whole number of jurors shall have been drawn from the box, or that a sufficient number of the names of jurors for the transaction of the business of the courts in said county for the unexpired portion of the year, shall not be remaining in the box, the judge of the court of common pleas of such county may, during term time, or in vacation, order such number of jurors as he may consider necessary, to be apportioned among the several townships in said county, in the manner provided by section two of the act entitled "an act relating to juries," passed January 1, 1831; and the clerk of said court, after making such apportionment, shall cause a statement in writing of the number of jurors required of each township, to be forthwith delivered to the sheriff of such county, who shall forthwith serve the same upon the trustees, and return it as a summons is served and returned. The trustees of the several townships shall, immediately on receiving such statement, proceed to select good judicious persons having the qualifications of electors, who were not selected at the previous October election, to the number required of such township, and transmit a list of the persons so selected to the clerk of said court. The said clerk shall, on receiving such list, deposit in the box the names thereon, as required by the provisions of section three of the said act relating to juries.

When new apportionment of jurors shall be made.

Clerk to deliver statement to sheriff.

Sheriff to serve same on trustees.

Duty of trustees.

SEC. 2. That section one of the act entitled "an act supplementary to the act relating to juries, passed February 9, 1831, and to amend the ninth section of said act," passed and took effect March 31, 1859, (S. & C., 760) be and the same is hereby repealed.

Repeal.

SEC. 3. This act shall take effect and be in force from and after its passage.

A. T. WALLING,

Speaker pro tem. of the House of Representatives.

T. J. GODFREY,

President pro tem. of the Senate.

Passed April 2d, 1869.

AN ACT

To amend the second section of an act entitled "an act for the further protection of cemeteries in the state of Ohio," passed March 11, 1867. (S. & S., p. 69.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section two of an act entitled "an act for the further protection of cemeteries in the state of Ohio," passed March 11, 1867, be so amended as to read as follows:

Trustees
may appoint
watchmen,
&c.

SEC. 2. That it shall be lawful for the trustees, directors or other officers of all organized cemeteries in this state, to appoint as many day and night watchmen of their grounds as they may deem expedient; and such watchmen, and all of their superintendents, gardeners and agents stationed on said grounds, are hereby authorized to take and subscribe, before any mayor or justice of the peace in the township where such cemetery may be situated, an oath of office similar to the oath required by law of constables; and upon the taking of such oath, such watchmen, superintendents, gardeners and agents, shall have, exercise and possess all the powers of police officers within and adjacent to said cemetery grounds; and they, and each of them, shall have power to arrest on view, all persons engaged in violating the by-laws, rules or regulations adopted by the trustees, directors or other officers of such organized cemeteries, or the laws of this state, in reference to the protection, good order, care and preservation of cemeteries, and the trees, shrubbery, structures and adornments therein, and to bring such persons so offending before the mayor or justice of the peace within such township to be dealt with according to law.

Their powers.

SEC. 2. That section two of the above recited act be repealed, and that this act shall take effect and be in force from and after its passage.

A. T. WALLING,

Speaker pro tem. of the House of Representatives.

T. J. GODFREY,

President pro tem. of the Senate.

Passed April 6th, 1869.

AN ACT

To amend "an act to exempt the homestead of families from forced sale on execution to pay debts," passed March 23d, 1850. (S. & C., vol. 2, page 1145.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That sections one, two, six and eight, of the above recited act, be so amended as to read as follows:

Section 1. That the family homestead of each head of a family shall be exempt from sale on execution on any judgment or decree rendered on any cause of action accruing after the taking effect of this act; provided, that such homestead shall not exceed one thousand dollars in value.

Homestead
exempt from
execution,
&c.

Section 2. That the sheriff or other officer executing any writ of execution founded on any judgment or decree, such as is mentioned in the first section of this act, on application of the debtor, his wife, agent or attorney, at any time before sale, if such debtor have a family, and if the lands or tenements about to be levied upon or any part or parcel thereof shall be the homestead thereof, shall cause the inquest of appraisers, upon their oaths, to set off to such debtor by metes and bounds a homestead not exceeding one thousand dollars in value; and the assignment of the homestead, so made by the appraisers, shall be returned by the sheriff or other officer along with his writ, and shall be copied by the clerk into the execution docket; and if no complaint be made by either party, no further proceedings shall be had against the homestead; but the remainder of the debtor's lands and tenements, if any more he shall have, shall be liable to sale on execution in the same manner as if this act had not passed; provided, that upon complaint of either party and upon good cause shown, the court out of which the writ issued, may order a re-appraisement and re-assignment of the homestead; provided, also, that in case no application be made as aforesaid, during the lifetime of the debtor, such application may be made by the widow of the judgment debtor at any time before a sale.

How home-
stead set off.

Section 6. When the homestead of any debtor in execution shall consist of a house and a lot of land, which, in the opinion of the appraisers, will not bear division without manifest injury and inconvenience, the plaintiff in execution shall receive in lieu of the proceeds of a sale of the homestead, the amount over and above one hundred dollars annually, which shall be adjudged by the appraisers heretofore mentioned as a fair and reasonable rent for the same until the debts, costs and interest are paid. The said rent, over and above one hundred dollars, shall be payable in quarterly payments, commencing three months from the time of the levy of the execution, and the said rent may be paid to the plaintiff in execution or to his assigns, or to the clerk of the court of common pleas of the county in which the said homestead is situated, and the said clerk shall give to the persons paying the same a proper receipt and enter the same upon the execution docket without charge; and in case said rent is not paid quarterly, as above provided for, or within ten days after each and every payment shall become due, then, and in that case, it shall be the duty of the officer to proceed and sell said homestead in the same manner as is provided in other cases for the sale of real estate; provided, such homestead shall not be sold for less than its appraised value; and the plaintiff in execution may cause the said homestead to be re-appraised once in two years in the same manner as provided for in the second sec-

Procedure
when home-
stead is not
divisible.

tion of this act; and the said rent shall, after such re-appraisement, be paid in accordance with the said re-appraisement; but in case the said homestead shall not, in any such re-appraisement, be appraised at least one hundred dollars more than the next previous appraisement, the costs of such re-appraisement shall be paid by the plaintiff in execution.

Repeal and
proviso.

SEC. 2. That original sections one, two, six and eight of said act, be and they are hereby repealed; provided, however, that the sections so repealed shall continue in force to all debts contracted and liabilities incurred prior to the passage of this act.

Personal
property
exempt. &c.

SEC. 3. That it shall be lawful for any resident of Ohio, being the head of a family and not the owner of a homestead, to hold exempt from levy and sale as aforesaid, personal property to be selected by such person, his agent or attorney, at any time before sale, not exceeding five hundred dollars in value in addition to the amount of chattel property now by law exempted. The value of said property to be estimated and appraised by two disinterested householders of the county, to be selected by the officer holding the execution, who shall be sworn by such officer impartially to make such appraisement.

Awards in
certain cases.

SEC. 4. When a homestead shall be charged with liens, some of which, as against them, preclude the allowance of a homestead to either the head of the family or the wife; and others of such liens do not preclude the allowance of such homestead, and a sale of such homestead is had, then of the proceeds of such sale; after the payment of the liens so precluding the allowance of such homestead, the balance, not exceeding five hundred dollars, shall be awarded to the head of the family, or the wife, as the case may be, upon the application of either of them in person or by agent or attorney, in lieu of such homestead.

SEC. 5. This act shall take effect and be in force from and after its passage.

A. T. WALLING,
Speaker pro tem. of the House of Representatives.

T. J. GODFREY,
President pro tem. of the Senate.

Passed April 9th, 1869.

AN ACT

To provide for the return of unclaimed checks and certificates in possession of the officers of this state, to the second auditor of the United States Treasury.

Transfer of
unclaimed
checks and
certificates
to adjutant
general, &c.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That such unclaimed checks and certificates as were deposited with the treasurer of state, under the provisions of an act to abolish the bureau of soldiers' claims, and the office of military claim agents, passed April 15, 1867, shall

be transferred to the adjutant general, to be forwarded by him together with such other checks and certificates for which claimants cannot be found, as may accumulate in his office, to the second auditor of the United States treasury, and he shall take a receipt therefor, and preserve the same in his office.

SEC. 2. This act shall take effect and be in force from and after its passage.

A. T. WALLING,
Speaker pro tem. of the House of Representatives.
 J. C. LEE,
President of the Senate.

Passed April 12, 1869.

AN ACT

To amend section 21 of an act passed April 8, 1868; entitled an act to amend sections eighteen and twenty-one of the act relating to roads and highways, passed March 9, 1868, (O. L. vol. 65, page 78).

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section 21 of the above recited act be amended so as to read as follows:

Section 21. Any person charged with a road tax may discharge the same by labor on the public highways within the district where the same is charged, within the time designated in this act, at the rate of one dollar and fifty cents per day, and a ratable allowance per day for any team and implements furnished by any person under the direction of the supervisor of such district, who shall give to such person a certificate specifying the amount of tax so paid, and the district and township wherein such labor was performed, which certificate shall in no case be given for any greater sum than the tax charged against such person; and the county treasurer shall receive all such certificates as money in the discharge of said road tax; provided, that when the commissioners of any county shall so direct, the supervisor shall write on the margin of his list opposite to the amount charged against all such as may pay the same, by labor or money, the word paid, and shall return his list on or before the first day of August of the same year to the township clerk, who shall write on the margin of the list sent to him by the auditor, opposite to the amount charged against each person who may have paid the same in labor or money, as shown by the return of the supervisor, the word paid, and shall forthwith forward the same to the county auditor, who shall charge all such as may remain unpaid, as shown by the returns of the township clerk, upon the duplicate of the proper county, and the same shall be collected as other moneys are collected by the county treasurer

How road
 tax may be
 paid, &c.

Where taxes shall be expended.

All road taxes collected by the county treasurer shall be paid over to the treasurer of the township or municipal corporation, from which the same were collected, and shall be expended on the public roads and in building and repairing bridges, as herein before provided, in the township or municipal corporation from which the said taxes were collected, under the direction of the trustees of the proper township, or council of such municipal corporation; and all funds heretofore levied for road purposes and not expended, shall be expended by the trustees of the township, or council of the municipal corporation from which the same were collected, as other taxes collected under the provisions of this act.

SEC. 2. That section 21 of the above recited act to which this is amendatory, be and the same is hereby repealed.

SEC. 3. This act to take effect and be in force from and after its passage.

F. W. THORNHILL,

Speaker of the House of Representatives.

J. C. LEE,

President of the Senate.

Passed April 24, 1869.

AN ACT

Authorizing County Commissioners to purchase land for the use of Court Houses, Jails and County Infirmaries, and to erect buildings thereon; to build Bridges, and prescribing their duties in the construction of, addition to, or alteration of any Court House, Jail, County Infirmary or Bridge; and to repeal sections four and five of the act, passed March 3, 1831, entitled "An act providing for the erection of Public Buildings," (S. & C., vol. 2, p. 1229); the act entitled "An act granting additional authority to County Commissioners for Infirmary purposes," passed April 16, 1867, (S. & S., 537.); the act entitled "an act to amend section three of an act entitled 'an act further to prescribe the duties of County Commissioners,' passed April 8, 1856, as amended April 4, 1866," passed May 9, 1868, (S. & S., 87.); sections twenty, twenty-one and twenty-three of the act entitled "An act for the relief of the Poor," passed February 23, and took effect May 1, 1865, (S. & S., 525.); and sections seven and eight of the act entitled "An act prescribing the rates of taxation for State, County, Township, City and other purposes," passed April 30, 1862, (S. & S., 777.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That in all cases when it shall become necessary to purchase a site for any court house or jail, or to purchase land for the use of any county infirmary now erected, or here-

When county commissioners may purchase sites, &c.

after to be erected, it shall be, and is hereby declared to be lawful for the commissioners of any county to purchase a building site for any court house or jail, and to purchase for the use of any county infirmary, now erected or hereafter to be erected, such amount of land as may be necessary for the use of any such infirmary, at such price and upon such terms of cash payment or of credit, as may be agreed upon between the commissioners and the owner or owners of such building site or lands, and the title of such real estate shall be conveyed to the commissioners of the county in fee simple.

SEC. 2. The commissioners of any county, for the execution of the objects stated in the first section of this act, or for the purpose of erecting any court house, buildings for county offices, jail, county infirmary or bridge, or for the purpose of enlarging, repairing, improving or rebuilding any such building or bridge, are hereby authorized to borrow such sum or sums of money as they shall deem necessary, at a rate of interest not to exceed the legal rate at the time such money shall be borrowed, and issue the bonds of the county to secure the payment of the principal and interest of the sum or sums of money so borrowed; such interest shall be paid semi-annually, at the county treasury, and the principal shall be paid at such treasury at such times as the commissioners may prescribe, within seven years from the date of such indebtedness. The interest on all the bonds issued for any of said purposes shall become due and payable at the same time, and the first payment of interest on any such bond shall be for such portion of the six months as may have elapsed between the date of its issue and the time specified therein for the first payment of interest thereafter.

May borrow money, issue bonds. &c.

Interest semi-annually.

SEC. 3. That the bonds so issued shall be signed by the commissioners, or any two of them, and countersigned by the auditor, with or without coupons attached, in sums not less than fifty nor more than one thousand dollars each, payable to bearer at the county treasury, with interest as aforesaid, at such times, not exceeding seven years after date, as the commissioners may prescribe, and such bonds shall specify distinctly the object for which they were issued.

Character of the bonds.

SEC. 4. The commissioners shall annually, at their June session, levy such amount of taxes as will pay the interest on such indebtedness, and at least one-seventh of the principal; provided, that where such indebtedness is created by the purchase of lands, the erection, repair, alteration or improvement of a building or buildings for an infirmary for such county, the property of any city which shall support the poor thereof at its own expense exclusively, shall not be taxed for such purpose.

Levy of taxes.

SEC. 5. If the commissioners shall refuse or neglect to levy such tax regularly as herein provided, it is hereby made the duty of the county auditor to levy said tax upon the taxable property of the county, and place the same upon the duplicate; and all the taxes levied and collected under the provisions of this act, shall be applied to the specific objects for which they are levied, and no others.

When county auditor shall levy taxes.

Redemption
of bonds.

SEC. 6. All bonds issued under the provisions of this act, shall be correctly numbered in the order in which they are issued, and registered by the county auditor in a book by him to be provided and kept in his office, and all orders drawn upon the treasury for the payment of the principal and interest on such bonds, shall specify the fund on which they are drawn; and the auditor shall, upon delivering to the holder of any such bond an order upon the treasurer for the redemption of the same, receive such bond, and forthwith write across the face of the same in red ink the word "redeemed," and sign his name thereto; the treasurer upon receiving such order, which shall contain the number of the bond for the redemption of which the same is drawn, shall proceed forthwith to the office of the auditor, and there, in presence of the auditor, write in red ink across the registry of such bond the word "redeemed," with the proper date, and sign his name thereto, when the auditor shall deliver to him the original bond for which he shall be credited in his semi-annual settlements with the auditor and commissioners.

Plans and
bills of ex-
penses, &c.

SEC. 7. That in all cases where it shall become necessary for the commissioners of any county to erect, or cause to be erected, any court house, building for county offices, jail, infirmary or bridge, or when it shall be necessary to make any addition to or alteration of any such building or bridge, such commissioners, before entering into any contract for the erection, alteration of, or addition to such building or bridge, or for the supply of materials therefor, shall make, or procure some competent architect to make, a full, complete and accurate plan or plans of such court house, jail, infirmary or bridge, or of any addition to or alteration thereof in all its parts, showing all the necessary details of the work, together with working plans suitable for the use of the mechanics or other builders during the construction thereof, so drawn and represented as to be plain and easily understood, and also accurate bills showing the exact amount of all the different kinds of materials to be used in the erection thereof, addition thereto or in the alteration and improvement thereof, to accompany said plan or plans, and also full and complete specifications of the work to be done, showing the manner and style in which the same will be required to be done, and giving such direction for the same as will enable any competent builder to carry them out, and afford to bidders all needful information to enable them to understand what will be required in the construction, addition to, or alteration or improvement of any court house, jail, infirmary or bridge, and to make, or cause to be made, a full, accurate and complete estimate of each item of expense, and the entire aggregate cost of such court house, jail, infirmary or bridge, or of any addition to, alteration or improvement thereof, when completed.

By whom to
be approved.

SEC. 8. That such plans, drawings, representations, bills of materials and specification of work and estimates of the cost thereof in detail, and in the aggregate, as is required in the seventh section of this act to be made, if they relate to

the building of any court house or jail, or any addition to, alteration or repair or improvement thereof, shall be submitted to the commissioners, together with the clerk of the court, the sheriff and probate judge, for their approval, and if approved by them, or a majority of them, a copy thereof shall be deposited with the county auditor, by him to be safely kept in his office; and if the said plans, drawings, representations, bills of materials, specification of work and estimates relate to the building, addition to, or alteration of any infirmary, then the same shall be submitted to said commissioners and infirmary directors, and if approved by them, or a majority of them, a copy thereof shall in like manner be deposited in the office of the auditor, and by him safely kept for the inspection and use of parties interested; and if the said plans, drawings, representation, bill of materials, specifications of work and estimates relate to the building of any bridge, then the same shall be submitted to said commissioners, county auditor and county surveyor, and if approved by a majority of them, a copy thereof shall in like manner be deposited with the county auditor, and be kept by him for the purposes herein stated.

SEC. 9. That after such plans, descriptions, bills of materials, specifications and estimates as are in this act required, are made and approved in accordance with the requirements of this act, it shall be and hereby is made the duty of the county auditor to give public notice, in at least two newspapers of the county, of the time and place, when and where sealed proposals will be received for performing the labor and furnishing the materials necessary to the erection of any court house, jail, county infirmary or bridge, or any addition to, alteration or improvement thereof, and a contract or contracts, based on such sealed proposals will be made, which notice shall be published weekly six consecutive weeks next preceding the day named, for the making of such contract or contracts, and in two of the principal papers in any such county having the largest circulation therein, but if there is only one paper published in such county, then it shall be published in such paper; which notice shall state when and where such plan or plans, descriptions, bills and specifications can be seen, and which shall be open to public inspection at all reasonable hours, between the date of such notice and the making of such contract or contracts; provided, that when the cost of a building or a bridge, or of making any addition to or repair of any public building will not exceed one thousand dollars, the commissioners may, if they are of the opinion that the interest of the public will be the best subserved thereby, cause such building or bridge to be built, or such addition or repair to be made by private contract, without publication or public letting, as is provided in this and the following section.

Advertisement for proposals.

SEC. 10. That it shall be competent for the said commissioners, if for any cause they fail to make the contract or contracts as herein provided for, on the day named in the notice as in this act required, to continue from day to day until such

Concerning contracts for building, &c.

contract or contracts be made; provided, that such contract shall be awarded to and made with the person or persons who shall offer to perform the labor and furnish the materials at the lowest price; and give good and sufficient bond to the acceptance of the commissioners for the faithful performance of their contracts in accordance with the plan or plans, descriptions and specifications herein required, which plan or plans, description or specification shall be and are hereby made a part of such contract or contracts; and, provided further, that such contract or contracts shall not be binding upon any county until they are submitted to the prosecuting attorney of such county and by him found to be in accordance with the provisions of this act, and his certificate to that effect endorsed thereon; and, provided further, that if such contractor or contractors shall fail or refuse to proceed with the work specified in his or their contract or contracts in accordance with the plans, descriptions and specifications attached to and made part of such contract or contracts, the said commissioners shall have power to declare such contract or contracts annulled, and shall thereupon proceed to make another contract or other contracts for the completion of such work, in accordance with the provisions of this act.

No contract to be made for price exceeding estimate.

Estimate of labor and materials to be made, &c.

SEC. 11. That no contract or contracts shall be made for the erection of any court house, jail, infirmary or bridge, or for any addition to, change or improvement of the same, or for the labor or materials herein provided for at a price in excess of the estimates in this act required to be made.

SEC. 12. At the time or times named in the contract or contracts made and filed with the county auditor, in accordance with the provisions of this act, for payment to the person or persons with whom such contract or contracts had been made, it shall be and is hereby made the duty of the commissioners, or any architect they may employ to superintend the erection of any court house, jail, infirmary or bridge, or of adding to, altering or improving the same, to make or cause to be made a full, accurate and detailed estimate of the various kinds of labor and materials performed and furnished under such contract or contracts, with the amount due for each kind of labor and material, and the amount due in the aggregate, which estimates shall in all cases give the amounts of the preceding estimate or estimates, and the amount of labor performed or material furnished since the last estimate or estimates so made as in this act required, and shall be recorded in a book for that purpose to be provided by the said commissioners, and kept by the auditor, who shall furnish copies of all such estimates to the contractor or contractors, as the same shall from time to time be made.

Duty of county auditor as to estimates, &c.

SEC. 13. That it shall be the duty of the county auditor, when such estimate or estimates, so certified as in this act required, is presented to him, to compare the same carefully with the contract or contracts under which such labor or materials was furnished, and if there had been any previous estimates, then with such estimates; and if upon such comparison he shall find such last named estimates correct, he

shall number the same, place the original on file, and have a record thereof made, and give to the person or persons entitled thereto, taking his or their receipt therefor, an order on the county treasurer for the amount shown by such estimate or estimates to be due, less the amount of five per centum thereon, which shall be retained as additional security for the faithful performance of such contract or contracts, and shall be forfeited to the county in the event of a failure by such contractor or contractors to conform in good faith to the terms and conditions of such contract or contracts; and when the labor to be done and performed under such contract or contracts is completed, or materials furnished, and a final estimate thereof is made, and all done to the acceptance of said commissioners or any competent architect or builder employed by them to superintend the execution of such contracts, the county auditor shall include in his order or orders on the county treasurer in favor of the person or persons to whom such final estimate or estimates shall be due, the percentage retained on former estimates as herein required.

SEC. 14. The treasurer of the county shall pay the orders drawn under the provisions of this act, placing the same on file and keeping a register of the names of the person or persons to whom such orders are paid.

Duty of
county treasurer.

SEC. 15. Any county commissioners or persons employed by them, whose duty it is to superintend, in whole or in part, the erection of any court house, jail, infirmary or bridge, or the addition to, alteration or improvement of the same, or the making of the plans, description and specifications of the labor to be performed and materials to be furnished, as provided in this act, and the estimates of the cost thereof, or the estimates of the amount of labor done and materials furnished from time to time, under and in accordance with the terms and conditions of the contract in this act authorized to be made, and the provisions of this act, who shall, in the performance of the duty herein imposed upon him or them, knowingly permit the work to be done in any other mode or manner than as prescribed in such plans, descriptions and specifications, unless the same shall be done with the approval and consent of the officers, to whom, under the provisions of section eight of this act, the plans, drawings, representations, bills of material and specifications of work, and estimates of the cost thereof in detail, and in the aggregate, are required to be submitted for approval, or with material different from that required by such bills of material, unless done with the consent and approval of said officers as aforesaid, or shall knowingly make false estimates of the labor done and material furnished in the quantity or price thereof, shall be deemed and held guilty of a misdemeanor, and, upon conviction thereof, shall be fined in any sum not less than one hundred nor more than one thousand dollars, and shall be imprisoned in the county jail not less than three nor more than six months, and be liable to the county in which such misdemeanor may be committed for double the amount such county shall be damaged by reason thereof.

Penalty for
deviation
from plans or
contracts.

Disposal of
unexpended
balances.

SEC. 16. The county commissioners shall have power to transfer any unexpended balances of any funds raised for the purpose of erecting public buildings, remaining in the treasury of their respective counties, to any other fund, or to any other purpose for which money may be needed by such county: and in case there shall be a fund in such treasury, that has been levied and collected for a special purpose, and such fund, or a part thereof, will not be needed for such purpose until after the time fixed by law for the next payment of taxes, and any of the other funds of the county are exhausted, the commissioners shall have power to transfer such special fund, or such part thereof as may be needed, temporarily, to such other fund as may be exhausted, and reimburse such special fund out of the taxes levied for such other fund, as soon as the same are collected.

Prosecution
by indictment.

SEC. 17. All prosecutions under this act shall be by indictment in the court of common pleas, and it shall be the duty of the prosecuting attorney of the proper county to take charge of and direct all the proceedings necessary to enforce the contracts authorized by this act, and the provisions of the same, against such person or persons as become liable to the penalties herein prescribed.

Repeal.

SEC. 18. That sections four and five of the act passed March 3d, 1831, entitled an act providing for the erection of public buildings; also the act entitled "an act granting additional authority to county commissioners for infirmity purposes," passed April 16, 1867; also the act entitled an act to amend section three of an act entitled an act further to prescribe the duties of county commissioners, passed April 8, 1856, as amended April 4, 1866, passed May 9, 1868; also sections twenty, twenty-one and twenty-three of the act entitled "an act for the relief of the poor," passed February 23, and took effect May 1, 1865, (S. & S., 525;) and sections seven and eight of the act entitled "an act prescribing the rules [rates] of taxation for state, county, township, city and other purposes," passed April 30, 1862, be and the same are hereby repealed.

When commissioners
shall advertise for
proposals.

SEC. 19. That before the county commissioners shall purchase any lands or erect any building or bridge as provided in this act, the expense of which shall exceed one thousand dollars, they shall be required to publish, in one or more newspapers of the county, notice of their intention to make such purchase, erect such building or bridge, and the location of the same, for at least six consecutive weeks prior to the time that such purchase, building or location shall be made; and they shall hear all petitions for and remonstrances against such proposed purchase, location or improvement.

Proviso as to
effect of this
act.

SEC. 20. This act shall take effect and be in force from and after its passage; provided nothing herein contained shall in any way effect [affect] any contract heretofore entered into for the erection, addition to, improvement or repair of any of the building or other structure named in this act; provided also, that nothing herein contained shall in any manner affect any act now in force authorizing county commissioners to

erect court houses, buildings for county offices, jails, infirmaries, bridges, and other buildings for county purposes; but the same may be proceeded with and completed under such acts, in the manner herein provided, and as though this act had not been passed.

F. W. THORNHILL,
Speaker of the House of Representatives.
 J. C. LEE,
President of the Senate.

Passed April 27, 1869.

AN ACT

To amend the first section of the act entitled "an act to amend sections 1, 2, 4, 5, 6 and 11 of an act to authorize the county commissioners to construct roads on petition of a majority of the resident land owners along and adjacent to the line of said road, and to repeal an act therein named, passed March 29, 1867," passed March 31, 1868. (O. L., vol. 65, p. 41; S. & S., 673.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section one of the above recited be amended so as to read as follows:

Section 1. The county commissioners of any county in this state shall have power, as hereinafter provided, within such county, to lay out and construct any new county road, or to improve any state, county or township road, or any part thereof, or any free turnpike road or roads made prior to the passage of the act to which this is an amendment; provided, that when any such free turnpike road or roads shall be improved under the provisions of this act, the improvement shall extend along the whole length of such free turnpike road or roads as originally established, and no greater length, by straightening or altering the same, and by grading, paving, graveling, planking or macadamizing the same, and by draining the same in any direction required to reach the most convenient and sufficient outlet; and for such purpose they shall have power, without further petition, when deemed by them expedient, to vacate any state, county or township road, or any part thereof, and improve several roads under the same petition, where the same may be united in one continuous road improvement.

Powers of
 county com-
 missioners in
 construction,
 &c., of roads.

SEC. 2. Section one of the act to which this is amendatory is hereby repealed; provided, that such repeal shall not affect or impair any right acquired or any liability incurred under the law so repealed.

Repeal.

SEC. 3. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
 J. C. LEE,
President of the Senate.

Passed April 23, 1869.

AN ACT

To provide for the erection of the "Central Ohio Lunatic Asylum."

Asylum to be
built on old
site.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the trustees of the Central Lunatic Asylum shall proceed, immediately after the passage of this act, to erect, on the grounds known as the Central Lunatic Asylum grounds, in the city of Columbus, a building for the insane, capable of properly accommodating four hundred patients, and at a cost not exceeding in the aggregate when completed the sum of four hundred thousand dollars, under the provisions of the act entitled "an act prescribing the duties of directors, trustees, commissioners or other officer or officers to whom is confided the duty of devising and superintending the erection, alteration, addition to or improvement of any state institution, asylum or other improvement," passed April 3, 1868.

Old materials to be
used, &c.

Fire proof.

SEC. 2. That in making contracts for the erection of said building, the trustees shall have reference to the value of the materials on the ground, so far as the same can be applied to and made useful in the erection of the new building. Said building shall be constructed as near fire proof as practicable, and with such partition and fire walls between the several wards as will afford protection, and separate the wards in case of fire.

SEC. 3. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed April 23, 1869.

AN ACT

Authorizing county commissioners to levy a tax for road purposes, in certain cases. (Ohio Laws, volume 63, p. 121.)

When tax
for construction or repair
of roads may
be made.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That whenever any one or more of the principal highways of any county have been so damaged or destroyed by freshet, land-slides, wear or water-courses, or by any other casualty, neglect or inattention, as to render the same unfit for travel, and hinder free and necessary transportation, and the commissioners of such county shall be satisfied that the ordinary levies authorized by law, for said purposes, will be inadequate to provide money necessary to

repair such damages, or to remove obstructions from, or make such changes in, such road or roads rendered necessary by the aforesaid cause or causes, they shall be and are hereby authorized, annually thereafter, to levy a tax at their June session of in the year one thousand eight hundred and seventy, and each year, of any sum not exceeding five mills upon the dollar, upon all taxable property of any such county, to be expended under their directions, in such manner as may seem to them most advantageous to the interest of any such county, for the construction, reconstruction or repair of such road or roads.

SEC. 2. To anticipate the receipts which may come into the county treasury by virtue of the tax levied under authority of the provisions of this act, the said commissioners are hereby authorized to borrow from time to time such sums of money as shall not exceed in the aggregate four-fifths of the tax levied by this act; provided, that the money so borrowed in any one year shall not exceed four-fifths of the tax levied in any such year; and the money so borrowed shall be paid with lawful interest at the county treasury out of the taxes so levied.

Money may
be borrowed
in anticipa-
tion, &c.

SEC. 3. During such years as the commissioners of any county shall avail themselves of the provisions of this act, they shall levy no tax for road purposes other than that which is prescribed by the provisions of this act.

No other
taxes to be
levied.

SEC. 4. This act to take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
T. J. GODFREY,
President pro tem. of the Senate.

Passed April 30, 1869.

AN ACT

To amend an act entitled "An act for the establishment, support and regulation of Children's Homes in the several counties of this state, and repealing a certain act therein named."

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section two of the above act be so amended as to read as follows:

Section 2. When the necessary site and buildings are provided by the county, it shall be the duty of the commissioners of such county, unless otherwise provided for by special enactment, to appoint thereafter, on the first Monday of March, a board of three trustees, who shall hold their offices as follows: One for the term of one year, one for the term of two years, and one for the term of three years from the date of their appointment; and annually after said board shall be so con-

Appoint-
ment of
trustees.

stituted, said county commissioners shall, on the first Monday of March annually thereafter, appoint one trustee for said "Children's Home," who shall hold his office for the term of three years, and until his successor shall be appointed and qualified; and the said trustees shall appoint some suitable person, who shall act as superintendent of said "Children's Home," and who shall also be clerk of said board of trustees, and he shall receive for his services such compensation as the said commissioners may determine, and he shall perform all such duties, and give security for the faithful performance of them, as the trustees may by by-laws direct. The trustees shall not receive any compensation for their services. The said trustees shall have entire charge and control of said "Children's Home," and the inmates therein. They shall appoint a matron, assistant matron and teachers for said "Children's Home," whose duties shall be the special care of the inmates of said "Home," direct their employment, and give suitable physical, mental and moral training to the inmates. The matron shall have the control, general management and supervision of the household duties of said "Children's Home," and the said matron, assistant matron and teachers, shall each perform such other duties and receive for their services such compensation as the trustees shall by by-laws from time to time direct, and may be removed at the pleasure of any two of them upon good cause.

Superintendent.

Matron, &c.

Repeal.

SEC. 2. That section two of the above act to which this is amendatory, be and the same is hereby repealed.

SEC. 3. This act shall take effect from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
 T. J. GODFREY,
President pro tem. of the Senate.

Passed April 30, 1869.

AN ACT

To authorize County Commissioners to locate and construct turnpike roads.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the county commissioners of any county in this state, when they shall become satisfied that the public interests of their county demand and justify special action for the improvement of the roads of such county, are hereby authorized and empowered to appoint three disinterested freeholders of their county as commissioners to view, survey and locate within their said county, one or more main trunk roads, beginning at and leading from the county seat of said county, or such other and eligible points as may be deemed proper, and running by such direct and eligible route as they may find to be best for the public convenience, and terminat-

County commissioners to appoint viewers, &c., to locate roads.

ing at any point within or at the county line; provided, that nothing herein contained shall be construed to authorize or require said county commissioners to construct or maintain any such road within the corporate limits of the town or city where the county seat is located.

SEC. 2. That the roads established and constructed under this act, shall be opened not more than sixty feet wide, nor less than forty feet, and at least twenty feet in width shall be turnpiked with earth so as to drain freely to the sides, and raised with stone or gravel, not less than twelve nor more than sixteen feet in width, nor less than twelve inches thick in the center, and not less than eight inches thick at the outer edge of such bed of stone or gravel, well compacted together in such manner as to secure a firm, even and substantial road; provided, the county commissioners may, in their discretion, cause said road to be constructed wholly of earth when stone or gravel is not accessible to the line of said road. In no case shall the grade of ascent or descent on said road be greater than seven degrees; and the same shall be well provided with all necessary side-drains, waste-ways and under-draining, to prevent overflowing or washing by water, and with substantial bridges or culverts at all crossings of water-courses, and said roads shall be free to the public use for travel.

Width of
road, grade,
&c.

SEC. 3. Said county commissioners shall have authority to authorize the commissioners by them appointed, to call to their assistance a competent surveyor or civil engineer, or both, at their discretion, with the necessary and proper assistants, and to lay out, survey and locate such turnpike road, through or upon any improved or unimproved lands on the best route between the points of beginning and termination, and to obtain by grant or take propositions for the purchase from the owner or owners of land over which said road will pass, the right of way, and to take timber and other materials necessary to the construction and repair of the same. When said commissioners and the owners fail to agree as to the amount of compensation, or where the owner is unknown, non-resident or incapable of contracting, then the same shall be ascertained and adjusted by proceedings had in the name of said county commissioners, under the laws in force at the time providing for the appropriation of private property to public use; and in locating such road, said commissioners may authorize the viewers or commissioners by them appointed, to locate said road upon the whole or any part of any state, county or township road heretofore laid out and established within said county, and to widen, alter, change or vacate the same; or any part thereof, subject to the same rules as to compensation for property appropriated as aforesaid.

Surveyor or
engineer to
be appointed,
&c.

Proceedings
in certain
cases.

SEC. 4. That before determining upon the location or establishment of any such turnpike road, said county commissioners may require donations of money, and written agreements on the part of taxpayers of such county, subjecting their taxable property to taxation annually, to aid in the location and construction of the same during the term of

Donations
may be re-
quired, &c.

years named therein, and at the rate therein specified, which agreements shall be filed and recorded in the office of the county auditor of such county, and from the time of such filing and recording, shall operate as a lien upon the real estate of the several parties joining therein as donors for the purpose therein provided. All revenues derived from the aforesaid donations in money and taxation, shall be kept and held as a separate fund in the county treasury of such county, and shall be applicable only to the purposes of locating and constructing such turnpike roads; and if said commissioners shall determine not to establish and construct such road, then any moneys received as donations shall be refunded, and said agreements for donations by taxation shall become inoperative.

Additional
tax author-
ized.

SEC. 5. That upon the location and establishment of any such turnpike road by the county commissioners, they shall be authorized, for the purpose of aiding in the construction, and to provide a permanent fund for the maintenance and expense thereof, to levy annually, in addition to other road taxes authorized by law, a tax for turnpike road purposes of not more than four mills on the dollar of valuation on the grand duplicate of taxable property in such county, and to continue such levy from year to year until any such road or roads which may have been commenced shall be completed; provided, that no taxes shall be levied on any lands which have heretofore been assessed for the construction of any free turnpikes or improved road or roads already constructed, or in the course of construction at the time the levy of tax as aforesaid, unless the amount that would be rateably levied upon the said lands shall exceed the amount of such assessment, and in such case such excess only shall be levied and collected; and for the purpose of raising the money necessary to meet the expenses of said improvements, the commissioners of any county are hereby authorized, if in their opinion the same be advisable, to issue the bonds of said county, payable at such times as they may deem advisable, with interest not exceeding the legal rate per annum, payable semi-annually, and which bonds shall not be sold for less than their par value.

Record of
proceedings.

SEC. 6. Said commissioners shall cause to be kept by the county auditor, a full record of all the proceedings in the location, establishment and construction of said road, together with accurate accounts of receipts and expenditures of money under the provisions of this act; and no money shall be drawn from the treasury except to pay liabilities already accrued, and then only in pursuance of orders caused by said commissioners whilst in session as a board, to be entered upon the record of their proceedings, and by orders drawn by the county auditor upon the county treasury, in favor of the person or persons to whom such money is due.

Work to be
let to lowest
bidder, &c.

SEC. 7. The work in the construction of such roads shall be by the county commissioners let publicly to the lowest responsible bidder, after due notice given of such letting by publication in one or more newspapers published or of general circulation in such county, or by hand-bills, or both; and

for that purpose said commissioners shall cause the same to be divided into convenient sections, and each section numbered from the county seat, or other point named as the place of beginning, toward the termination, and shall let the same by sections, with proper specifications of the various kinds of labor required on each section; and bidders shall be required to separately state their bids for each class of work, in such manner as the commissioners shall provide, and each contractor shall be required to give bond and sufficient security for the performance of his contract, by bonds payable to said county commissioners, for the use and benefit of such county, and with the necessary specifications and stipulations on the part of said contractor inserted therein. In all cases the construction of such roads shall commence at the point of beginning, and no payment for work or material shall be made except upon estimates made by the surveyor or engineer employed by the commissioners, and by him duly certified, of work actually done or materials actually furnished, or both, and after reserving such per cent. as may be fixed by the parties to the contract, to guarantee performance of the same.

SEC. 8. When any such road or roads shall be constructed under the provisions of this act, it is hereby made the duty of the county commissioners and the trustees of any township through which such road shall pass, to keep the same in repair in the same manner and under the same rules and regulations as now are or may hereafter be prescribed by law for keeping in repair roads and highways. Roads to be kept in repair.

SEC. 9. The said viewers, surveyor or engineer, and their assistants, shall be entitled to receive the same compensation for their services required under the provisions of this act, as is now allowed by law in the construction of state or county roads. Compensation.

SEC. 10. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
T. J. GODFREY,
President pro tem. of the Senate.

Passed April 30, 1869.

AN ACT

Supplementary to an act entitled "An act to amend an act entitled 'an act to amend an act to provide a Bounty for Veteran Volunteers,' passed March 7, 1867," passed May 16, 1868.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section one of the above recited act to which this act is supplementary, shall be held and construed so as to include within its terms and provisions the same benefits to be given to re-enlisted veteran non-commissioned

Construction of act amended.

officers and soldiers of the United States regular army as to state volunteers, where such men of the regular army are shown to be credited as required by said act to which this act is supplementary.

SEC. 2. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
T. J. GODFREY,
President pro tem. of the Senate.

Passed April 30, 1869.

AN ACT

To provide for the payment of claims for damages growing out of the military expedition of John Morgan, in the State of Ohio, A. D. 1863.

Recitation.

WHEREAS, The commissioners appointed under the act of the general assembly of the State of Ohio, March 30th, A. D. 1864, and an act supplementary thereto, passed May 5, 1868, to examine claims growing out of said military expedition of said John Morgan, have investigated and allowed claims for damages sustained by citizens of the State of Ohio, to the amount of five hundred and eighty thousand eight hundred and thirty-seven dollars, of which amount four hundred and thirty thousand nine hundred and sixty-nine dollars resulted from the capture and destruction of property by the rebel forces under command of said John Morgan, (most of which said property was afterwards recaptured by the union forces, and appropriated to the use of the United States,) one hundred and forty-three thousand six hundred and eleven dollars from property taken, damaged and destroyed by the union forces under command of United States officers, and six thousand two hundred and fifty-seven dollars from property taken, damaged and destroyed by the forces under the command of officers of the State of Ohio; therefore,

Appropriation authorized.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That there may be appropriated, from any money that may hereafter be in the treasury, belonging to the general revenue, not otherwise appropriated, the following sums, for the purposes following, viz:

For the payment of damages and injuries caused by the rebel forces in taking, damaging and destroying property, (most of which said property was afterwards recaptured by the union forces, and appropriated to the use of the United States,) the sum of four hundred and thirty thousand and nine hundred and sixty-nine dollars.

For the payment of damages from the United States forces, in taking, damaging or destroying property, the sum of one

hundred and forty-three thousand six hundred and eleven dollars.

For the payment of damages for property taken, damaged or destroyed by the militia of Ohio, the sum of six thousand two hundred and fifty-seven dollars.

SEC. 2. The official report of the commissioners, appointed under the act of March 30th, 1864, entitled "an act to provide for the appointment of commissioners to examine claims growing out of the Morgan raid, and prescribing their duties," and an act supplementary thereto, passed May 5, 1868, and heretofore filed with the governor of the state, shall be conclusive of the several sums allowed to individuals, and the governor is hereby authorized and required to deliver to the auditor of state, a certified abstract of the claims allowed by said commissioners, as appears by said report; and the auditor shall draw his warrant on the treasurer of state in favor of each original claimant, or his or her heirs, for his, her or their claim, and deliver the same, on demand, to such claimant, or his, her or their legal representatives; provided, that nothing in this act contained shall require or authorize said auditor to draw and deliver his warrant to such claimant or claimants, until such claimant, or his legal representatives, shall make and file with said auditor an affidavit to the effect that neither such claimant or claimants, his, her or their heirs, or legal representatives, have ever received any compensation whatever, either directly or indirectly, from the United States government, nor from any other source, for or on account of such claim; and that no part of the claim of such claimant or claimants has been assigned or otherwise disposed of. No warrant shall be drawn by the auditor when any assignment or other disposition of the claim has been made to the assignee, in an amount of an excess of the amount paid by the assignee to the claimant. And said auditor, before drawing his warrant for payment of an assigned claim, to the assignee, shall require the affidavit of said claimant showing the amount of money which he secured for said claim; and the auditor shall draw his warrant to said assignee for the amount so shown to have been paid for said claim, and no more, to said assignee; and such auditor shall draw his warrant to the claimant to [for] the balance of said claim, after deducting the amount paid said assignee.

Report of
commission-
ers to be
credited.

Rule of pay-
ment.

SEC. 3. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed April 30th, 1869.

AN ACT

To amend section four of an act entitled "An act for opening and regulating roads and highways," passed January 27, 1853, (S. & C. p. 1290.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section four of an act entitled an act for opening and regulating roads and highways, passed January 27, 1853, be so amended as to read as follows:

Sec. 4. That previous to any petitions being presented for a county road, or for the alteration of a county road, or for the vacation of a county road, notice thereof shall be given by advertisement set up at the auditor's office, and in three public places in each township through which any part of said road is assigned to be laid out, altered or vacated, at least thirty days previous to the meeting of the commissioners at which the petitions shall be presented; also, a notice stating the time when such petition is to be presented; and the substance thereof shall be published for four consecutive weeks before the presentation of any such petition, in some newspaper published in the county in which may be situated the road sought to be established, altered or vacated by such petition (if there be a newspaper therein;) and on the petition being presented and the commissioners satisfied that notice has been given as aforesaid, they shall appoint three disinterested freeholders of the county as viewers, who shall also be a jury to assess and determine the compensation to be paid in money for the property sought to be appropriated, without deduction for benefit to any property of the owner; and they shall also assess and determine how much less valuable, if any, the land or premises from which such appropriation may be taken, will be rendered by the opening and construction of said road; and also a skillful surveyor to survey the same, and shall issue their order directing said viewers and surveyor to proceed on a day to be named in said order, or on their failing to meet on said day, or within five days thereafter, to view, survey and lay out or alter said road; and also determine whether the public convenience requires that such road or any part thereof shall be sixty feet in width, or whether a less width than sixty feet will as well promote the public convenience, and report the width in their opinion such road should be established and opened; provided that if said viewers shall fail to proceed on the day named in said order to view, survey, lay out or alter said road, or within five days thereafter, as directed in this section, so that said duty shall not be performed and reported to said commissioners at their regular session next after such order was made, said commissioners may at such next regular session issue a new order and appoint new viewers, who shall after said session be by said order required to perform the same duties as required of said original viewers under the original order, or

Notices of intention to petition, to be set up, &c.

Also, notice to be in a newspaper.

Reviewers to be appointed.

Damages to be assessed.

Surveyor to be appointed.

Width of road.

Duties of commissioners, &c.

the commissioners may take such other order in the premises as to them may seem proper in the premises.

SEC. 2. Original section four of which this act is amend- Repeal.
atory, is hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed April 30, 1869.

AN ACT

To provide for the registry of births and deaths, and to repeal an act therein named.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the probate judges of the several counties of this state shall keep a record of the births and deaths reported to them, as hereinafter provided. The births shall be numbered, recorded and alphabetically indexed in the order in which they are received, and the record shall state in separate columns the date of making the record, the date and place of birth, the name, sex, and color of the child, the maiden name of the mother and the name of the father of the child, and the residence of the parents, as fully as the same are reported. The deaths shall be likewise numbered, recorded and indexed, and the record thereof shall state in separate columns, so far as the same is reported, the date and place of death, name and surname of the deceased, condition (whether single, married or widowed), age, place of birth, occupation, names of parents (when an infant without name), cause of death, color, and last place of residence of such deceased person, and the date of making the record.

Probate
judges shall
keep a record
of births and
deaths.

SEC. 2. It shall be the duty of the assessors of the several townships and wards of each county of this state, to obtain annually the foregoing statistics, at the time that each assessor shall make the assessment of his respective township or ward for the year ending the last of March preceding each annual assessment, and report the same to the probate judge of his county at the time of his regular report to the county auditor, except in counties containing cities of the first class having a population of one hundred and fifty thousand and over, in which counties it shall be the duty of the physicians and professional midwives to keep a registry of the several births in which they have assisted professionally, which shall contain, as near as the same can be ascertained, the time of such birth, sex and color of the child, the names and residence of the parents; and physicians who have attended deceased persons in their last illness, clergymen who have officiated at the funeral, and sextons who have buried deceased persons, shall keep a registry of name, age and

Township
assessors
shall obtain
statistics
annually.

Duties of
physicians
and mid-
wives.

residence of such deceased persons at the time of their death. It shall be the duty of the physicians and professional midwives to report fully the births registered by them, as required by this act, to the judge of the probate court of the county, every three months, viz: on or before the second Monday of the months of January, April, July and October of each year. In case there is no physician or midwife in attendance at any birth, then the parents shall be required to report to the probate judge within one month; and physicians, clergymen and sexton, shall likewise report fully the deaths registered by them, as required by this act, to the judge of the probate court of the county, every three months as above designated; and every person who shall neglect or refuse to comply with, or violate, the provisions of this act, shall forfeit and pay for each offense the sum of ten dollars, to be sued for and recovered in the name of the state of Ohio, and the penalty, when recovered, shall be paid over, one-half thereof to the school fund, and one-half to the party making complaint thereof.

Duty of
probate
judge.

SEC. 3. It shall be the duty of each probate judge to furnish to each assessor of the several townships or wards of his respective county, annually, and to other persons making such report, a sufficient number of properly ruled blanks, which shall be paid for out of the county treasury, upon which to make such report to said probate judge.

His further
duties.

SEC. 4. It shall be the duty of the probate judge of each county in this state, receiving the reports as above specified, within sixty days after the receipt thereof, to record the same in a book to be provided by the county commissioners for that purpose, and to transmit an abstract thereof, on or before the first Monday of November, every year, to the secretary of state, or officer having charge of such statistics of state, in such form as shall be prescribed by that officer, who shall file the same in his office, to be used by him in his annual report to the legislature.

Evidence in
courts.

SEC. 5. Every original entry made as above described, and a copy of such entry duly certified over the seal of said court, shall be received in all courts and places as prima facie evidence of the facts therein stated, and said records shall be open to the inspection of the public at all proper hours.

Fees of pro-
bate judges.

SEC. 6. The probate judges shall be entitled to receive and charge for all services under this act, like fees as are charged and taxed by law for similar services in other cases, to be paid out of the county treasury upon the order of the county auditor.

Repeal.

SEC. 7. That the act entitled "an act to provide for the registry of births and deaths," passed March 18, 1867, and all former acts, be and the same are hereby repealed.

SEC. 8. That this act shall take effect and be in force from and after its passage.

F. W. THORNHILL,

Speaker of the House of Representatives.

J. C. LEE,

President of the Senate.

Passed April 30, 1869.

AN ACT

Supplementary to "An act to provide for the creation and regulation of Incorporated Companies in the State of Ohio," passed May 1, 1852.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That any company heretofore or that hereafter may be incorporated by the laws of this state for the purpose of mining silver ores, gold ores, or other mineral substances, may increase its capital stock.

Mining companies authorized to increase capital stock.

SEC. 2. That the directors of any such mining company desiring to increase the capital stock thereof, shall call a meeting of its stockholders for the purpose, giving at least thirty days previous notice of such meeting in some newspaper published at the place of the principal office of such company, or by notice, by mail, to each stockholder.

Meeting of Stockholders.

SEC. 3. Upon the vote of the stockholders owning two-thirds at least of the stock of any such company in favor of such increase of its capital, the directors thereof shall cause to be filed, in the office of the secretary of state, a certificate signed by the president and secretary of such board of directors, of the action of the stockholders at such meeting, and of the amount of the increase of the capital stock adopted by such company, and at the same time file with the auditor of state a certificate setting forth the amount of such increase, which certificate shall be recorded as in case of the original organization of such companies, and from and after the filing and recording of such certificate, the same shall form a part of the charter of such company.

Certificate to be filed.

SEC 4. This act to take effect from and after its passage.

F. W. THORNHILL,

Speaker of the House of Representatives.

J. O. LEE,

President of the Senate.

Passed April 30, 1869.

AN ACT

To prevent obstructions and to protect the navigation of the Ohio river.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That it shall be unlawful for any person, company or body corporate, to connect with or attach to the Ohio shore of the Ohio river, any bridge now in process of construction, or hereafter to be constructed over such river, with a terminus in this state, unless such bridge or bridges shall have one unbroken and continuous span of not less than four hundred feet in the clear over the main channel of the river.

Obstruction by bridges prohibited.

SEC. 2. Any company or body corporate that shall violate either of the provisions contained in the first section of this act, or which shall procure or induce any person or persons

Penalty for violation of this act.

to violate the same, shall, for every such unlawful act, forfeit and pay the state of Ohio, ten thousand dollars, which sum shall be collected by civil action in the court of common pleas of the proper county, which action shall be conducted by the prosecuting attorney thereof.

SEC. 3. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed April 30, 1869.

AN ACT

To repeal an act entitled an act defining the jurisdiction of the Probate Court of the counties of Fulton, Williams, Sandusky, Van Wert, Darke, Wyandot and Coshocton, in minor criminal cases, passed March 9, 1867, so far as the same is applicable to the county of Fulton. (O. L. vol. 64. p. 43 and 44.)

Section applicable to certain counties.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section one of said act be amended so as to read as follows:

Sec. 1. That the provisions of an act entitled "an act defining the jurisdiction and regulating the practice of the probate courts in the counties of Erie, Lucas, Richland, Holmes, Montgomery, Delaware, Franklin, Scioto and Jefferson," passed April 12, 1858, and the several acts and parts of acts amendatory thereto, be and the same are hereby extended to and declared to be in full force in the counties of Williams, Sandusky, Van Wert, Darke, Wyandot and Coshocton.

Repeal, and proviso as to Fulton county.

SEC. 2. That section one of said act of March 9, 1867, be and the same is hereby repealed; provided that nothing herein contained shall in any manner affect any cause or causes, pending in said probate court in any of said counties, or in the county of Fulton, or the rights and liabilities of any person held to answer in said courts previous to the time of the taking effect of this act, but the same shall be proceeded with in the same manner as if this act had not been passed.

Definition of intent.

SEC. 3. That the true intent and meaning of this act is to exempt the county of Fulton from the operation of the provisions of the above entitled act of March 9, 1867, formed after the taking effect of this act.

SEC. 4. This act shall take effect and be in force from and after the first day of January, A. D. 1870.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed April 30, 1869.

AN ACT

To amend the act establishing Miami University, passed February 17, 1809, and of the several acts amendatory thereto.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That there shall be hereafter twenty-seven trustees of Miami University. Immediately after the passage of this act, it shall be the duty of the governor, by and with the advice and consent of the senate, to appoint three trustees of said university to serve for three years, three trustees to serve for six years, and nine trustees to serve for nine years from the first day of March, 1869; who, with the twelve trustees whose terms of service have not yet expired, shall constitute the board of trustees of said university. As the terms of service of said trustees expire, the persons appointed in their place shall hold their offices for the term of nine years, and until their successors are appointed and qualified. In all other cases of vacancy, the person appointed to fill the same shall hold his seat until the term of the former trustee would have expired, and no longer.

Number and appointment of trustees.

SEC. 2. That the said board of trustees be, and they are hereby required, to make a full and accurate report to the governor of the state, on or before the fifteenth day of November annually, to be transmitted to the legislature, which report shall contain a statement of all receipts and disbursements of the preceding year, the number of students in attendance, the studies taught, and such other matters connected with the said institution as they shall deem important.

Annual report.

SEC. 3. It shall be the duty of the standing committee on universities and colleges of each legislature, to examine into the condition of said university, and report to the legislature, from time to time, such matters as they shall think important to the interests of said university.

Duty of standing committee on universities, &c.

SEC. 4. That the act passed February 1, 1814, and so much of the act passed February 10, 1824, as regulates the appointment of trustees of said university, be and the same are hereby repealed

Repeal.

SEC. 5. This act shall take effect from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed April 30, 1869.

AN ACT

Authorizing the building and repairing of Levees to protect lands from overflow.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the probate judge of any county in this Probate judge may

cause levees
to be located
&c.

state shall have power, whenever in his opinion the same will be conducive to the health, convenience or welfare of any number of the citizens of said county, or is necessary for the protection of the lands of such citizens, to cause to be established, located and constructed, as hereinafter provided, any levee or embankment on or along any stream or water course within his county, for the protection of lands from overflow.

Petition to
be filed, &c.

SEC. 2. Before the probate judge shall take any step towards locating or establishing any such levees or embankments, there shall be filed in his office a petition from one or more persons owning or occupying lands adjacent to the line of any such proposed levee or embankment, setting forth the necessity of the same, with a substantial description of its proposed starting point, route and terminus, and shall at the same time file a bond with good and sufficient sureties, to the satisfaction of said judge, conditioned to pay all expenses in case the said judge shall refuse to grant the prayer of the petitioners; whereupon said judge, or one of said petitioners, shall immediately cause a notice in writing to be given to the owner or one of the owners of each tract of land sought to be affected by said proceeding, of the filing and pendency of said petition, said notice to state substantially the prayer of said petition, and the time the same will be for hearing by said judge. If any person owning lands sought to be affected by said proceedings be a non-resident of the county, notice may be given by publication for two consecutive weeks in some newspaper of general circulation in said county.

Application
for compensation
for damages.

SEC. 3. That any person or persons claiming compensation for lands appropriated for the purpose of constructing any levee or embankment under the provisions of this act, shall make an application in writing therefor to the said judge on or before the day appointed for the hearing of said petition, and on failure to making [make] such application, such owner or owners shall be deemed and held to have waived his, her or their right to such compensation.

Action of
probate
judge, ap-
pointment of
viewers, &c.

SEC. 4. On the day set for hearing said petition, if it appear to the judge that any person or persons interested in said levee or embankment have not been notified as required by this act, or that any requisite preliminary steps have not been taken, he shall continue the case to a future time not exceeding twenty days, and order such notice to be given or such preliminary steps taken. But if this act has been substantially complied with in all respects, then he shall proceed to hear and determine said petition; and if he is satisfied that said levee or embankment is necessary for the protection of any such lands or the welfare of such citizens, or any of them, he shall appoint three competent disinterested freeholders of the county, who shall be sworn faithfully to perform their duty, and shall proceed to view the premises along said proposed route, and make a report of their proceedings in writing to said judge within ten days from the date of their appointment, which said report shall show whether in the opinion of said viewers the said levee or embankment is necessary or ought to be built, and whether or not any other person or persons than the petitioners should assist in defray-

ing the expenses thereof, and the proportion which in their opinion each ought to pay. If the said viewers report in favor of the construction of said levee or embankment, the said judge shall appoint a day, not later than five days from the filing of said report, when he shall hear and determine all applications for compensation as provided for in this act, and arguments for or against the construction of said levee or embankment.

SEC. 5. If upon a hearing of the case the said judge is satisfied said levee ought to be constructed, he shall order the same to be done, and shall appoint a competent engineer to locate, level and measure the same, and divide it into suitable sections, not less in number than the number of owners of land benefited by its construction, and shall prescribe the time within which the work on each section shall be completed and by whom done. And the said judge shall allow and assess all the reasonable fees, costs and expenses of locating and establishing such levee or embankment, and shall apportion the payment of the same equitably among the parties to be benefited thereby, and prescribe the time within which said assessment shall be paid, and shall, if requested by any of the parties, prepare for the use of such person a brief statement in writing, describing briefly his, her or their apportionment of said levee, together with the length, depth, width and slope of the same, the amount of costs assessed against such person, when to be paid, and by what time the work to be completed.

Appointment
of engineer.

Assessment
of costs, &c.

SEC. 6. It shall be the duty of the probate judge, upon application of either party in interest, to impanel a jury of twelve disinterested freeholders of the county, who shall constitute a jury for such case; and said probate judge shall issue, under his hand and seal of office, a notice of such appointment, directed to the sheriff of such county, returnable at a day, not exceeding twenty days, therein named, which notice shall specify the time of meeting of said jury in said probate court; the said judge shall also issue a summons to any county in this state, requiring the sheriff to notify all persons interested in the construction of said levee or embankment, of the time fixed for the meeting of such jury. And if any person interested shall reside out of the state, or if his place of residence is unknown, such notice shall be published for three consecutive weeks in some newspaper of general circulation in said county, and proof of the publication shall be filed in the office of the probate judge before the meeting of such jury; provided, the rights of all the parties in interest shall be investigated in one case.

Jury to be
impanelled.

Notice to
non-res-
idents.

SEC. 7. That at the time specified in said notice, said probate judge shall hear and determine all preliminary questions pertaining to such case, and shall thereupon administer an oath to said jury, faithfully and impartially, and upon actual view of the premises along the route of the proposed levee, and report in writing to said court:

Subjects of
inquest.

First—Whether it will be conducive to the public health, welfare or convenience to cause said levee to be located.

Second—Whether it is necessary for the protection of property of any of the citizens of said county.

Third—The amount of compensation due to each person in case the same is located.

Fourth—The amount of labor to be performed by each person interested in the construction of the same.

The jury shall file their report within five days after taking such oath, unless the judge for good cause allow further time, specifying the sections and work to be done as provided in this act. The probate judge is hereby authorized to adjourn the proceedings in the premises from time to time as the circumstances of the case may require.

Record of
proceedings
&c.

SEC. 8. Upon the return of said jury, said probate judge shall make a record of all the proceedings had in such case before him, and shall also make such order as to the payment of compensation for land used, for work to be performed, and as to the time of payment and locating and constructing said levee or embankment, as said jury shall report, and shall also tax such costs in said proceedings as are provided for by law in similar cases; which costs shall be divided, to be paid in fair proportions by the several persons interested, in conformity with the report of such jury; provided, that the jurors shall be allowed pay at the rate of one dollar and fifty cents per day, and mileage at the rate of five cents per mile from the places of their residence to the probate judge's office, and from there to the place of the location of such proposed levee.

As to time
and manner
of construction,
&c.

SEC. 9. That said levee or embankment shall be constructed and compensation paid within the time specified in the order of said probate judge; and at the expiration of such time any such work remaining undone, and the probate judge being notified of that fact, shall immediately give notice of the sale of such work by sections or parts of sections to the lowest bidder by written or printed handbills. The time of such sale shall not be less than ten nor more than twenty days from the date of the notice; and the place of such sale shall be either at the door of the court house in said county, or at either terminus of such levee, as the probate judge shall direct. He shall take such security for the performance of such work as he may deem necessary, and he shall immediately after such sale, enter his proceedings on his journal and make them part of the record in such case, and shall thereupon certify to the county auditor the several amounts, including costs apportioned, so assessed against each owner or person interested as aforesaid, describing each piece or parcel of land so to be charged; and the said auditor shall thereupon enter the same on the duplicate, to be collected as other taxes, and when collected shall be paid over to the persons entitled thereto, upon the order of the probate judge, whenever he shall be satisfied that the several sections have been completed according to the report of the jury theretofore made. No order shall be made for the construction of such levee or any part thereof until the full amount of compensation for land appropriated shall have been paid.

SEC. 10. The proceedings under this act shall not be held to be void on account of any merely technical informality or

irregularity in the form of the petition, or any informality in the record of the proceedings of the judge or jury, or other proceedings pertaining thereto; and the collection of the taxes and assessments ordered in proceedings under the provisions of this act shall not be enjoined or held to be void on account of any merely technical irregularity or defect in such proceedings as aforesaid.

Irregularity,
&c., not to
invalidate
proceedings.

SEC. 11. That when it shall become necessary to repair any levee already constructed, or hereafter to be constructed, the same shall be done under the provisions of sections one, two, three, four and five of this act.

Repair of
levees.

SEC. 12. This act shall take effect on its passage.

F. W. THORNHILL,

Speaker of the House of Representatives.

J. C. LEE,

President of the Senate.

Passed April 30, 1869.

AN ACT

To provide for the better regulation of railroad companies, and to protect the rights of minority stockholders.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That it shall be lawful for the stockholders of any railroad company, whether organized under general or special laws, whose railroad is wholly or partly within this state, at any regular or special meeting of such stockholders, and if special, at least thirty days notice of the same shall be given by publication, by an affirmative vote of the stockholders owning a majority of the stock of such company, to direct their existing board of directors to so classify the members thereof, by lot or otherwise, that one-third thereof, shall terminate their official term as directors at the first annual election thereafter, and one-third at the next annual election thereafter, and the remainder at the next succeeding annual election thereafter; and at the first regular election succeeding such classification, when the term of the directors of the first class shall expire, and at each succeeding annual election thereafter, the stockholders shall elect directors for three years, to take the places of those retiring, and no more; and all vacancies otherwise occurring in said board shall be filled in manner prescribed by law.

Classifica-
tion of direc-
tors of cer-
tain rail-
roads.

SEC. 2. It shall be lawful for the stockholders of any railroad company whose railroad is wholly or partly within this state, at any regular annual election of directors thereof, serve for one year, one-third for two years, and the remainder to so classify and elect said directors that one-third thereof shall serve for three years; and at each succeeding annual election thereafter the stockholders shall elect directors to take the place of those whose term expire as above, and no person

The same.

shall be allowed to vote for directors as aforesaid unless he shall have been a registered stockholder of such railroad company at least thirty days prior to such election; the registry of such stock to be made in the books kept at the principal office of such company.

Applicable
to certain
railroads.

SEC. 3. The provisions of this act shall apply to railroad companies, if any such there be, whose bondholders or other creditors share with the stockholders in the election of directors, and in such case the vote necessary to direct the classification provided for in the first section of this act shall be the same as is now required to elect directors of such company.

SEC. 4. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed April 30, 1869.

AN ACT

Supplementary to an act entitled "an act to amend section 84 of an act entitled an act to provide for the organization, supervision and maintenance of common schools," passed March 14, 1858," (S. & C. 1858) passed April 23, 1862. (S. & S., page 720.)

City clerk to
be clerk of
board of edu-
cation in cer-
tain cases.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That in cities of the second class, having a population of less than twenty-one thousand and more than twenty thousand inhabitants, at the last federal census, the clerk of such cities shall be the clerk of the board of education of such city.

SEC. 2. This act shall take effect from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed April 30, 1869.

AN ACT

To provide for the care and support of insane colored persons of this State at Longview Asylum.

Governor
authorised

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the governor is hereby authorized to

enter into a contract, on behalf of the state, with the directors of Longview Asylum, for the care and support, at said asylum, of all insane persons of color in this state, at a rate not exceeding five dollars per week.

to contract
with Long-
view Asy-
lum, &c.

SEC. 2. After the making of such contract, the governor shall cause notice thereof to be forwarded to the several probate judges, and thereafter each county in this state shall be entitled to send insane persons of color to said asylum, under the provisions of the act entitled "an act to provide the for uniform government and better regulation of the lunatic asylums of the state, and the care of idiots and the insane," passed April 7, 1856, (S. & C., 840) and the acts amendatory thereof, (S. & S., 434, 441) so far as the same relates to the admission of patients into the several asylums of this state; and such patients shall be received and taken care of, in said asylum, as is provided for in said above recited acts.

Notice to be
given to pro-
bate judges,
&c.

SEC. 3. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed April 30, 1869.

AN ACT

To provide for the purchase of the right of way, and the construction of a sewer through certain lands for the benefit of the Southern Ohio Lunatic Asylum.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the trustees of the Southern Ohio Lunatic Asylum be, and they are hereby authorized and empowered to purchase of Mathias Steffin and Peter Peters, the right of way through their lands, for the purpose of constructing and maintaining a sewer through the same from the said asylum, and the perpetual right to use all the water of the spring run flowing through the grounds of said asylum and the lands of said Mathias Steffin and Peter Peters, for the purposes of said asylum; provided, that the price to be paid to said Mathias Steffin and Peter Peters, for such right of way through their lands, the right to enter thereon to make repairs, and the right to use said waters as aforesaid, shall not exceed, to said Mathias Steffin, the sum of twenty-three hundred dollars, and to said Peter Peters, the sum of three hundred dollars; and, provided further, that as a condition of such payment, the said Mathias Steffin and Peter Peters shall, by instruments in writing, properly executed, release all claims for damages that do now or may hereafter exist or accrue in favor of either of them or their assigns respectively, against the state, by reason of the sewerage from said asylum,

Purchase of
right of way
for a sewer.

flowing or passing upon or through their lands, or on account of the construction or repair of such sewer; said releases and the instruments to convey to the state in perpetuity such right of way, the right to enter, to make repairs, and the right to use said water, to be approved by the attorney general, and his approval endorsed thereon, before said trustees shall authorize the payment to said parties of the sums of money above stipulated.

Construction
of sewer.

SEC. 2. The said trustees shall proceed to construct said sewer in such manner and of such dimensions as in their opinion will be sufficient to carry off the sewerage from said institution, at a cost not exceeding twenty-six hundred dollars.

SEC. 3. This act shall take effect from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed May 1, 1869.

AN ACT

Relating to cities of the first class having a population exceeding one hundred and fifty thousand inhabitants.

Proceedings
to establish
and main-
tain a rail-
road.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That whenever, in any city of the first class having a population exceeding one hundred and fifty thousand inhabitants, the city council thereof shall, by a resolution passed by a majority of the members elected thereto, declare it to be essential to the interests of such city that a line of railway, to be named in said resolution, should be provided between termini designated therein, one of which shall be such city, it shall be lawful for a board of trustees, appointed as herein provided, and they are hereby authorized to borrow as a fund for that purpose, not to exceed the sum of ten millions of dollars, and to issue bonds therefor in the name of said city, under the corporate seal thereof, bearing interest at a rate not to exceed seven and three-tenths per centum per annum, payable at such times and places, and in such sums, as shall be deemed best by said board. Said bonds shall be signed by the president of said board, and attested by the city auditor, who shall keep a register of the same, and shall be secured by a mortgage on the line of railway and its net income, and by the pledge of the faith of the city, and a tax, which it shall be the duty of the council thereof annually to levy, sufficient, with said net income, to pay the interest and provide a sinking fund for the final redemption of said bonds; provided, that no money shall be borrowed on bonds issued until after the question of providing the line of railway specified in the resolution shall be

submitted to a vote of the qualified electors of said city, at a specified election to be ordered by the city council thereof, of which not less than twenty days' notice shall be given in the daily papers of the city; and further provided, that a majority of said electors, voting at such election, shall decide in favor of said line of railway. The returns of said election shall be made to the city clerk, and be by him laid before the city council, who shall declare the result by a resolution. The bonds issued under the authority of this section shall not be sold or disposed of for less than their par value.

SEC. 2. If a majority of the votes cast at said election shall be in favor of providing the line of railway as specified in the first section, it shall be the duty of the solicitor forthwith to file a petition in the superior court of said city, or, if there be no superior court, then in the court of common pleas of the county in which said city is situate, praying that the judges thereof will appoint five trustees, to be called the trustees of _____ railway, (the blank to be filled with the name given to the railway in the resolution); and it shall be the duty of said judges to make the appointment, and to enter the same on the minutes of the court. They shall enter into bond to the city in such sum as the court may direct, with one or more sufficient sureties, to be appointed by the court, conditioned for the faithful discharge of their duties. The bond so taken shall be deposited with the treasurer of the corporation for safe keeping.

Duty of city
solicitor.

—of the
judges

SEC. 3. The said trustees and their successors shall be the trustees of the said fund, and shall have the control and disbursement of the same. They shall expend said fund in procuring the right to construct, and in constructing a single or double track railway, with all the usual appendages, including a line of telegraph between the termini specified in the said resolution; and for the purposes aforesaid shall have power and capacity to make contracts, appoint, employ and pay officers and agents, and to acquire, hold and possess all the necessary real and personal property and franchises, either in this state or in any other state into which said line of railway may extend. They shall also have power to receive donations of land, money, bonds and other personal property, and to dispose of the same in aid of said fund.

—of the
trustees.

SEC. 4. The said trustees shall form a board, and shall choose one of their number president, who shall also be the acting trustee, with such power as the board may by resolution from time to time confer upon him. A majority of said trustees shall constitute a quorum, and shall hold regular meetings for the transaction of business, at their office in the city under whose action they are appointed, but they may adjourn from time to time to meet at any time and place they may think proper. They shall keep a record of their proceedings, and they shall cause to be kept a full and accurate account of their receipts and disbursements, and make a report of the same to the city auditor annually, and whenever requested by a resolution of the city council. No money shall

President of
the board,
duties, &c.

be drawn from said fund but upon the order of said board, except their own compensation, which shall be paid out of the same upon the allowance of the court appointing them, and shall be proportioned according to their respective services.

Security of
officers.

SEC. 5. Said trustees shall have power to take such security from any officer, agent or contractor, chosen, appointed or employed by them, as they shall deem advisable. They shall not become surety for any such officer, agent or contractor, or be interested directly or indirectly in any contract concerning said railway. They shall be responsible only for their own acts.

Removal for
cause.

SEC. 6. Whenever the city solicitor of any city under whose action a board of trustees has been appointed as herein provided, shall have reason to believe that any one of said trustees has failed in the faithful performance of his trust, it shall be his duty to apply to the court that appointed said trustee, by petition, praying that such trustee be removed, and another appointed in his place; and when a vacancy shall occur in said board from any other cause, it shall be filled in like manner. If the said city solicitor shall fail to make application in either of the foregoing cases, after request of any holder of the bonds issued by said trustees or by a tax-payer of the corporation, such bond-holder or tax-payer may file a petition in his own name on behalf of the holders of such bonds for like relief, in any court having jurisdiction, and if the court hearing the action shall adjudge in favor of the plaintiff, he shall be allowed as part of his costs, a reasonable compensation to his attorney.

Appropriation of land
for abutments, &c.

SEC. 7. Whenever in the construction of a line of railway as herein provided, it shall be necessary to appropriate land for the foundation of the abutments or piers of any bridge across any stream within or bordering upon this state, or for any other purpose, or to appropriate any rights or franchises, proceedings shall be commenced and conducted in accordance with the act entitled "an act to provide for compensation to the owners of private property appropriated to the use of corporations," passed April 3, 1852, and the acts supplementary thereto, except that the oath and verdict of the jury and the judgment of the court shall be so varied as to suit the case.

Purchase of
right of way,
&c.

SEC. 8. Whenever there shall be between the termini designated in any resolution passed under this act, a railroad already partially constructed, or rights of way acquired therefor, which can be adopted as part of the line provided for in said resolution, the trustees of said line may purchase the said railroad and right of way, and pay for the same out of the trust fund.

Portions may
be rented or
leased.

SEC. 9. The said trustees shall have power, as fast as portions of the line for which they are trustees are completed, to rent or lease the right to use and operate such portions upon such terms as they may deem best; but such rights shall cease and determine on the final completion of the whole line, when the right to use and operate the same shall be leased

by them to such person or company as will conform to the terms and conditions which shall be fixed and provided by the council of the city by which the line of railroad is owned.

SEC. 10. The city council of any city passing a resolution as provided in the first section, may appropriate and pay to the said trustees, out of the general fund of said city, such sum as may be necessary for defraying the expenses of the election, and said sum shall be repaid out of said trust fund when raised.

Compensation of trustees.

SEC. 11. This act shall take effect on its passage.

F. W. THORNHILL,

Speaker of the House of Representatives.

J. C. LEE,

President of the Senate.

Passed May 4, 1869.

AN ACT

To authorize cities of the first class to build Railroads and to lease or operate the same.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That in cities of the first class, which have been advanced to that grade between decennial periods, the city council thereof shall, by a resolution passed by a majority of the members elected thereto, declare it to be essential to the interests of such city that a line of railroad, to be named in said resolution, should be provided between termini designated therein, one of which shall be such city, it shall be lawful for a board of trustees, appointed as herein provided, and they are hereby authorized, to borrow, as a fund for that purpose, not to exceed the sum of five per cent. of the value of the property on the tax duplicate of such city, and to issue bonds therefor, in the name of said city, under the corporate seal thereof, bearing interest at a rate not to exceed seven and three-tenths per centum per annum, payable semi-annually at such places and in such sums as shall be deemed best by said board. Said bonds shall be signed by the president of said board and the mayor of such city, and attested by the city auditor or clerk, who shall keep a register of the same, and shall be secured by a mortgage on the line of railway, and its net income, and by the pledge of the faith of the city, and a tax not exceeding five mills on the dollar, which it shall be the duty of the council thereof annually to levy, sufficient, with said net income, to pay the interest and provide a sinking fund for the final redemption of said bonds; provided, that no money shall be borrowed or bonds issued until after the question of providing the line of railway specified in the resolution shall be submitted to a vote of the qualified electors of said city, at a special election to be ordered by the council thereof, of which not less than twenty days notice shall be given in the daily papers of said city; and provided further, that two-thirds of said electors

Proceedings to establish and maintain a railroad.

voting at said election shall decide in favor of said line of railway. The returns of said election shall be made to the city clerk, and be by him laid before the city council, who shall declare the result by resolution. The bonds issued under the authority of this section, shall not be sold or disposed of for less than their par value.

Duty of city
solicitor.

SEC. 2. If two-thirds of the votes cast at said election shall be in favor of providing the line of railway as specified in the first section, it shall be the duty of the city solicitor forthwith to file a petition in the court of common pleas of the county in which said city is situate, praying that the judges thereof will appoint five trustees, to be called the trustees of ——— railway (the blank to be filled with the name given to the railway in the resolution;) and it shall be the duty of said judges to make the appointment and to enter the same on the minutes of the court. They shall enter into bond to the city in such such sum as the court may direct, with one or more sufficient sureties, to be approved by the court, conditioned for the faithful discharge of their duties. The bond so taken shall be deposited with the treasurer of the corporation for safe keeping.

—of the
judges.

—of the trust-
tees.

SEC. 3. The said trustees and their successors shall be the trustees of the said fund, and shall have the control and disbursement of the same; they shall expend said fund in procuring the right to construct, and in constructing a single or double track railway, with all the usual appendages, including a line of telegraph between the termini specified in said resolution; and for the purposes aforesaid shall have power and capacity to make contracts, appoint, employ and pay officers and agents, and to acquire, hold and possess all the necessary real and personal property and franchises in this state; they shall also have power to receive donations in land or money, bonds and other personal property, and dispose of the same in aid of said fund.

President of
the board,
duties, &c.

SEC. 4. The said trustees shall form a board, and shall choose one of their number president, who shall also be the acting trustee, with such power as the board may, by resolution, from time to time confer upon him. A majority of said trustees shall constitute a quorum, and shall hold regular meetings for the transaction of business at their office in the city under whose action they are appointed; but they may adjourn from time to time to meet at any time they may think proper; they shall keep a record of their proceedings, and they shall cause to be kept a full and accurate account of their receipts and disbursements, and make a report of the same to the city council annually, and whenever requested by a resolution of the city council. No money shall be drawn from said fund but upon the order of said board, except their own compensation, which shall be paid out of the same upon the allowance of the court appointing them, and shall be apportioned according to their respective services.

Security of
officers.

SEC. 5. Said trustees shall have power to take such security from any officer, agent or contractor, chosen, appointed or employed by them, as they shall deem advisable. They

shall not become surety for any such officer, agent or contractor, or be interested directly or indirectly in any contract concerning said railway. They shall be responsible only for their own acts.

SEC. 6. Whenever the city council of any city shall have reason to believe that any one of said trustees has failed in the faithful performance of his trust, it shall be their duty to instruct the city solicitor to apply to the court that appointed said trustee by petition, praying that such trustee be removed, and another appointed in his place; and when a vacancy shall occur in said board from any other cause, it shall be filled in like manner. If the said city solicitor shall fail to make application in either of the foregoing cases, after request by any holder of the bonds issued by said trustees, or by a tax-payer of the corporation, such bondholder, or tax-payer, may file a petition in his own name, on behalf of the holders of such bonds, for like relief, in any court having jurisdiction; and if the court having the action shall adjudge in favor of the plaintiff, he shall be allowed as part of his costs a reasonable compensation for his attorneys.

Removal for
delinquency,
&c.

SEC. 7. Whenever in the construction of a line of railway, as herein provided, it shall be necessary to appropriate land for the foundation of the abutments or piers of any bridge across any stream within this state, or for any other purpose, or to appropriate any rights or franchises, proceedings shall be commenced and conducted in accordance with the act entitled an act to provide for compensation to the owners of private property appropriated to the use of corporations, passed April 3, 1852, and the acts supplementary thereto, except that the oath and verdict of the jury and the judgment of the court, shall be so varied as to suit the case.

Appropriation of land,
&c.

SEC. 8. Whenever there shall be between the termini designated in any resolution passed under this act, a railroad already partially constructed, or rights of way acquired therefor, which can be adopted as part of the line provided for in said resolution, the trustees of said line may purchase the said railroad and rights of way, and pay for the same out of the trust fund.

Purchase of
right of way,
&c.

SEC. 9. The said trustees shall have power, as fast as portions of the line for which they are trustees are completed, to rent or lease the right to use and operate such portions, upon such terms as they may deem best; but such rights shall cease and determine on the final completion of the whole line, when the right to use and operate the same shall be leased by them to such person or company as will conform to the terms and conditions which shall be fixed and provided by the council of the city by which the line of railway is owned.

Portions may
be rented or
leased.

SEC. 10. The city council of any city passing a resolution as provided in the first section of this act, may appropriate and pay to the said trustees, out of the general fund of said city, such sum as may be necessary for defraying the expen-

Compensation of
trustees.

ses of the election, and said sum shall be repaid out of said trust fund when raised.

SEC. 11. This act shall take effect on its passage.

F. W. THORNHILL,

Speaker of the House of Representatives.

J. C. LEE,

President of the Senate.

Passed May 4, 1869.

AN ACT

To provide temporary relief for the Poor in cities of the second class, and in incorporated villages of not less than three thousand inhabitants.

How additional levy for poor purposes may be made.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the city council of cities of the second class and the town councils of incorporated villages having a population of not less than three thousand, are hereby authorized to submit the question to the qualified electors to levy a tax in addition to the other taxes now authorized by law, of not more than three-fourths of a mill on the dollar; the proceeds of which shall be exclusively applied to the relief of the poor within such city or incorporated village, to be distributed under the direction of a committee composed of one from each ward, or a committee of three in each incorporated village, appointed annually by the council, who will serve without compensation.

SEC. 2. This act shall take effect on its passage.

F. W. THORNHILL,

Speaker of the House of Representatives.

J. C. LEE,

President of the Senate.

Passed May 4, 1869.

AN ACT

To authorize the removal of Drift, Timber, and other obstructions, from the natural channel of streams, and to protect lands from overflow.

Power of trustees to remove drift, &c.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the township trustees of any township in this state, shall have power, whenever in their opinion the same will be conducive to the health, convenience or general welfare of the citizens of their respective townships, or upon petition of the resident land owner or owners of any land adjoining or adjacent to any stream or streams of water in

this state, known as living streams of water, to remove, or cause to be removed, any drift, timber or other obstruction that may hinder the free passage of water in the natural channel of any such stream or streams.

SEC. 2. That all applications by the owner or owners of land adjoining on or adjacent to any such stream or streams, shall be by filing with the township clerk of such township, their petition, substantially stating the necessity for such improvement, together with a sufficient bond and approved security, to the acceptance of the clerk of any such township, conditioned to pay all expenses incurred in case the trustees shall refuse to grant the prayer of such petitions; and thereupon the township clerk shall give notice to the township trustees of the filing and pendency of said petitions, and said trustees shall immediately determine and designate a time and place when and where they will meet to hear said petition, and determine their proceedings thereunder; and thereupon the said petitioner or petitioners shall cause notice to be given to the owner or owners of each tract of land sought to be affected by said proceedings, of the filing and pendency of said petition; if any person owning lands sought to be affected by said proceedings, be a non-resident of the county, a notice shall be given him, by publication for two consecutive weeks, in some newspaper published or of general circulation in said county.

Applications
for such re-
moval by
owners of
land, &c.

SEC. 3. That on the day set for the hearing of said petition, if it appear to the trustees that any person or persons who may be interested in such improvement have not been notified as required by the provisions of this act, or that any requisite preliminary steps have not been taken, they shall adjourn to some future time, not exceeding twenty days, and shall order such notice to be given, or such preliminary steps to be taken; and a majority of said trustees shall be competent to perform any of the requirements of this act; but if said trustees shall find that said bond has been filed and said notice has been given, they shall proceed to hear and determine said petition, and, if they deem it necessary, shall view the premises along said proposed improvement, and if they find that such improvement is necessary, or will be conducive to the health, convenience or welfare of such citizens of said township, shall proceed to apportion the clearing of the natural channel of any such stream or streams, in a fair and equitable manner, according to the benefits to be derived therefrom, as near as the same can be done, among the owners of lands, adjoining on or adjacent to such stream or streams; and the said township clerk shall make a full and complete record of all such proceedings in the journal of the proceedings of the trustees of such township.

Proceedings
of trustees.

SEC. 4. The said township trustees, whenever they shall order such improvement, shall divide the same in suitable sections, not less in number than the owners of land sought to be affected by the provisions of this act, and shall also prescribe the time in which the work on said improvement shall be completed, and by whom done; and the said trustees shall

The same.

allow all reasonable fees, costs and expenses incurred in viewing and apportioning such improvement, to be paid out of the township fund of the proper township; and whenever the trustees shall deem the same right and just, they shall assist in the clearing of any such stream or streams, by common levy not to exceed one mill on the dollar's valuation in any one year, in their respective townships, to be certified to the county auditor on or before the first of June in any such year.

Applicable
to streams
dividing
township
lines.

SEC. 5. That whenever any streams of water, as described in the first section of this act, shall be a township line, the trustees of each township so bounded by such stream or streams, shall meet and divide as before specified, the clearing of such streams jointly, and shall be governed in all respects by the provisions of this act.

Persons in-
terested may
appeal, &c.

SEC. 6. It shall be lawful for any person or persons interested in such improvement determined upon by said trustees, to take an appeal from the proceedings of said trustees to the probate court of the proper county, by giving written notice thereof to the clerk of such township, within five days after the decision of said trustees, and by filing with such clerk a bond, with two or more sufficient securities, conditioned to pay all cost made upon such appeal, in case the decision of said trustees shall be sustained in said probate court; which bond shall be made to the acceptance of said township clerk and the probate judge of such county; their acceptance shall be indorsed on the same, and filed by the probate judge with the other papers in the case. The township clerk shall, at the request of any person so appealing, his agent or attorney, make out and deliver to such person, his agent or attorney, a full and complete transcript, duly certified, of the proceedings had in the case, which transcript shall be filed with the probate judge of such county within ten days from the filing of such bond.

Trial before
a jury, &c.

SEC. 7. It shall be the duty of the probate judge, upon the filing of such bond and transcript as provided for in the sixth section of this act, to impanel a jury of twelve disinterested freeholders of the county, none of whom shall be a resident of such township, who shall constitute a jury for such case; and said probate judge shall issue notice of such appointment, directed to the sheriff of such county, returnable on a day, not exceeding thirty days therein named, which notice shall specify the time of meeting of said jury in said probate court; that it shall be the duty of the appellant to notify all persons so interested in the improvement contemplated in this act, of the time fixed by the probate court for the meeting of said jury; and if any person interested in said improvement shall reside out of the state, or cannot be served in writing with such notice, said probate judge, being notified of the fact, shall cause such notice to be published for three consecutive weeks in some newspaper printed or of general circulation in said county, that proof [of] the publication of such notice shall be filed with such probate court before the meeting of such jury, together with the proof of the service of such notice in writing, on all persons interested as aforesaid, at or before

the time so specified; provided, that in all cases where two or more persons shall have taken an appeal according to the preceding section of this act, the probate judge shall order the consolidation of such cases into one case, and the rights of all the parties in interest shall be investigated by the jury in the one case thus consolidated.

SEC. 8. That at the time specified in said notice, said probate judge shall hear and determine all questions pertaining to such case, and shall thereupon administer an oath to said jury, faithfully and impartially, and upon actual view, if so required by either party, to proceed to determine whether such improvement will be conducive to the health, convenience or welfare of the citizens of said township; and the jury shall file such report with the probate judge within five days after taking such oath, unless the court, for good cause shown, shall allow further time. If, on the hearing of the proceeding referred to above in this section, the probate judge shall find that the proceedings in appeal have not been perfected, he shall dismiss the appeal at the cost of the appellant or appellants, and certify such dismissal back to the trustees of the proper township, who thereupon shall proceed as if no appeal had been taken; provided, that such judge may in his discretion order and allow the correction of any technical defect, error or omission, in making such appeal.

Proceedings
on the hear-
ing.

SEC. 9. Upon the return of the said jury, the probate judge shall make a record of all their proceedings had in such case before him, and shall also make such order as to payment of costs in said proceedings as are provided for by law in similar cases; which costs, together with those made before said township trustees, shall be divided, to be paid in fair proportion among the appellants, in conformity to the report of said jury; provided, that if the report of said jury shall not be in favor of the appellant or appellants, all costs made on such proceedings in said probate court shall be taxed to and be paid by such appellant or appellants, and collected as judgments at law in other cases; but if two or more persons shall have appealed, and the report of said jury shall be favorable to some and against the other appellants, the probate judge shall apportion said costs equitably among all the appellants except those in whose favor the report of the jury is made; provided, that township trustees shall be allowed one dollar and fifty cents for each day employed in such proceedings, and said jury shall be allowed one dollar and fifty cents each per day, together with mileage, as in other cases.

Record of
return, pay-
ment of
costs, &c.

SEC. 10. But if no appeal shall be taken as provided for in the sixth section of this act, then it shall be the duty of said township trustees, upon the expiration of the time specified by them for finishing said improvement, and upon being satisfied by inspection and view that any part of such improvement has not been completed, shall proceed to sell the same to the lowest responsible bidder, by first setting up written or printed notices of such sale in at least three of the most public places in such township, specifying the time when such work shall be completed; said notice to be posted up at

Proceedings
where there
is no appeal.

least ten days before the day of sale; and said trustees shall take such bond or other security for the performance of such work as they may deem proper; and immediately after the sale of such unfinished improvement as is contemplated in the third section of this act, said township trustees shall certify to the county auditor the amount each section sold for, adding the proportionate amount of costs and expenses of such sales, together with a correct description of each piece of land, and the auditor shall place the same on the duplicate, to be collected as other state and county taxes are collected. As soon as such work shall be completed, in conformity with such sale and to the satisfaction of the trustees, said trustees shall certify the amount due each person to the auditor of the proper county, and said auditor shall draw orders for the payment of such amount out of the county treasury; provided, that any person interested may pay the amount of the purchase and the proportionate share of costs and expenses as aforesaid to said trustees, at any time before the same are charged on the duplicate, to be paid by said trustees to the purchasers of such section or sections respectively.

Power to
keep streams
clear of drift,
&c

SEC. 11. The township trustees shall have the same power to keep the natural channel of any living stream or streams of water in any township in this state, free and clear of all drift, timber or other obstructions, in the same manner as is provided in this act for clearing the same; provided, that nothing in this act shall be construed to interfere with any mill dam or water works already constructed or to be constructed on any stream or streams in this state, or the placing of flood gates across any such stream; but such flood gates shall be made in such manner as not to materially obstruct the passage of water in any such stream or streams.

SEC. 12. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed May 4, 1869.

AN ACT

To provide for the better protection of Free Bridges, and to repeal section four of an act therein named.

Notice to be
painted on
the ends of
free bridges.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That it shall be the duty of the commissioners of the several counties of this state, to cause to be painted in large letters, and conspicuously placed at each end of every free county bridge, which they may deem proper to protect by the provisions of this act, a notice cautioning all persons against driving on or over the bridge faster than a

walk, also cautioning all persons against driving on or over the bridge at any one time a greater number of cattle or horses than twenty head, under penalty of a fine not to exceed in amount ten dollars, nor of a less sum than one dollar.

SEC. 2. Any person or persons who shall ride or drive faster than a walk on or over any free county bridge having placed upon it the caution notice required by the first section of this act, or who shall drive on or over any such bridge, at any one time, a drove of cattle or horses in greater number than twenty head, such person or persons so offending shall be deemed guilty of a misdemeanor, and shall, upon conviction before any court of competent jurisdiction, pay a fine in any sum not exceeding ten dollars nor less than one dollar, to be collected and paid into the treasury of the county wherein the bridge is located, and applied to the bridge fund of said county; and the party or parties shall stand committed until the fine and the costs of prosecution have been paid, or until the person or persons so convicted shall be discharged by due process of law.

Penalty for fast driving, &c., over bridges.

SEC. 3. That it shall be lawful for the constable of any township, or the marshal of any city or incorporated village, to arrest upon view and without any process any person or persons violating any of the provisions of this act

Constable to arrest offenders.

SEC. 4. That all prosecutions under this act shall be in the name of the state of Ohio, and shall be commenced within three months after the offense has been committed.

Prosecutions.

SEC. 5. That nothing contained in this act shall be construed to take away from the county commissioners any right of action for damages, which, without this act, they may have had against any person or persons for injury done to such bridge.

Construction.

SEC. 6. Section four of an act entitled "an act for the better security of toll and other bridges," passed February 11, 1824, be and the same is hereby repealed.

Repeal.

SEC. 7. This act shall take effect and be in force from and after its passage.

F. W. TORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed May 4, 1869.

AN ACT

To amend an act fixing the rate of Interest.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the parties to any bond, bill, promissory note or other instrument of writing, for the forbearance or payment of money at any future time, may stipulate therein for the payment of interest upon the amount of such bond,

Parties to bond, note, &c., may stipulate for interest not exceeding 8 per cent.

Stipulated
amount bind-
ing till pay-
ment.

Interest to
be six per
cent. when
there is no
stipulation.

Interest on
previous
transactions
not affected
by this act.

Section re-
pealed.

bill, note or other instrument of writing, at any rate not exceeding eight per centum per annum, payable annually.

SEC. 2. That upon all judgments, decrees or orders rendered upon any bond, bill, note or other instrument of writing, containing stipulations for the payment of interest in accordance with the provisions of the first section of this act, interest shall be computed till payment at the rate specified in such bond, bill, note or other instrument of writing.

SEC. 3. In all cases other than those provided for in the first and second sections of this act, when money shall become due and payable upon any bond, bill, note or other instrument of writing, bearing date after the passage of this act, upon any book account or settlement hereafter made between parties upon all verbal contracts hereafter entered into, and upon all judgments, decrees and orders of any judicial tribunal for the payment of money arising out of any contract made or other transaction occurring after the passage of this act, the creditor or creditors shall be entitled to interest at the rate of six per cent. per annum, and no more.

SEC. 4. All creditors shall be entitled to collect and receive interest on all bonds, bills, notes and other written instruments heretofore entered into, upon all balances struck on settlements heretofore made, upon book accounts heretofore accrued, upon all verbal contracts heretofore made, and upon all judgments, decrees and orders of courts heretofore rendered, precisely as if this act had not passed.

SEC. 5. That section one of an act fixing the rate of interest, passed January 12, 1824, be and the same is hereby repealed.

SEC. 6. This act to take effect and be in force from and after the first day of October, 1869.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed May 4, 1869.

AN ACT

To authorize certain cities therein described to borrow an additional amount of money for School purposes.

Cities may
borrow
money &c.,
for school
and school
house pur-
poses.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That any city of the first class having a population less than one hundred thousand inhabitants, for the purpose of paying for lands which have been or may hereafter be purchased or appropriated by such city for school house sites or grounds, and for the purpose of erecting suitable school buildings and completing those already in process of erection thereon, shall have the power to borrow money, over and above the amounts heretofore authorized by law, in any sum not exceeding one hundred and fifty thousand dollars, at

such rate of interest as the city council thereof may deem proper, not exceeding eight per cent. per annum, payable semi-annually; and for the purpose of effecting such loan, the city council of such city shall have the power to pledge the faith of such city for the payment of both principal and interest, including the power to levy a tax for the payment of the same whenever due, and to make and execute such bonds or other evidence of debt, and payable at such times and places as shall be agreed upon by the parties contracting; which said bonds or other evidences of debt may be made transferable and redeemable in such form and at such times and places as may therein be designated or prescribed.

SEC. 2. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed May 4, 1869.

AN ACT

To regulate the execution and transfer of notes given for patent rights, and to repeal an act on the same subject, passed May 5th, 1868. (S. & S. 509.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That whenever any promissory note or other negotiable instrument shall be given, the consideration for which shall consist in whole or in part, of the right to make, use or vend, any patent invention or inventions claimed to be patented, the words "given for a patent right" shall be prominently and legibly written or printed on the face of such note or instrument above the signature thereto; and such note or instrument in the hands of any purchaser or holder, shall be subject to the same defenses as in the hands of the original owner or holder; and any person who shall purchase or become the holder of any promissory note or other negotiable instrument knowing the same to have been given for the consideration aforesaid, shall hold such note or other instrument subject to the same defenses as in the hands of the original owner, or holder, although the words "given for a patent right" shall not be written or printed upon the face thereof.

How notes,
&c, given
for patent
right shall be
endorsed,
&c.

SEC. 2. If any person shall take, purchase, sell or transfer any promissory note or other negotiable instrument, not having the words "given for a patent right" written or printed legibly and prominently on the face of such note or instrument above the signature thereto, knowing the consideration of such note or other instrument to consist in whole or in part of the right to make, use, or vend any patented invention or inventions claimed to be patented, every such person shall be

Penalty for
purchasing
or selling
any note, &c.
not having
the requisite
indorsement.

deemed guilty of misdemeanor, and upon conviction thereof shall be fined in any sum not exceeding five hundred dollars, or imprisoned in the county jail forty days, or both, in the discretion of the court.

Act repealed. SEC. 3. That the act passed May 5, 1868, entitled "an act to regulate the sale of patent rights in the state of Ohio, and prevent frauds, connected therewith," (S. & S. 509,) be and the same is hereby repealed.

SEC. 4. This act shall take effect on its passage.

F. W. THORNHILL,

Speaker of the House of Representatives.

J. C. LEE,

President of the Senate.

Passed May 4, 1869.

AN ACT

Supplementary to an act entitled "an act to provide for the voluntary dissolution of Corporations," passed April 15, 1867. (S. & S., 243.)

When corporations may be dissolved.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That whenever the directors, trustees or other officers having the management of the concerns of any corporation, or the majority of them, shall become satisfied that the objects of such corporation cannot be accomplished, and the capital stock of such corporation has not been paid, nor any installment thereof, and no investments have been made and no debts incurred which are unpaid, they or the president of the board of directors, trustees or other officers as aforesaid, may call a meeting of the stockholders of such corporation, at such time and place as he or they may designate, by publication in some newspaper of general circulation in the county wherein the principal office of the corporation is located; and if a majority in amount of the stockholders present at such meeting, in person or by proxy, shall decide that the objects of such corporation cannot be accomplished, the corporation shall thereupon be dissolved and cease.

SEC. 2. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,

Speaker of the House of Representatives.

J. C. LEE,

President of the Senate.

Passed May 4, 1869.

AN ACT

To protect more effectually the lives of Railroad Passengers from casualties by fire.

How cars shall be heated, &c.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That each railroad company in this State shall, when necessary to heat any of its cars, do so by heat-

ing apparatus so constructed that the fire in it will be immediately extinguished whenever the cars are thrown from the track and overturned; and it shall be unlawful for any railroad company in this State to allow any other railroad company or person or persons to run any cars upon its roads unless the heating apparatus in such cars conforms to the requirements herein prescribed.

SEC. 2. It shall be unlawful for any railroad company to light or illuminate any of its cars except with candles properly protected, or to allow any other railroad company or person or persons to run any cars upon its roads unless the manner of lighting or illuminating such cars conforms to the requirements herein prescribed.

Candles
must be
used in
lighting cars.

SEC. 3. Whenever any heating apparatus contemplated by this act shall be offered for sale, and the price cannot be agreed upon between the railroad company desiring to purchase and the seller, an arbitrament concerning such price may be made by the selection of three disinterested citizens of Ohio, one by the seller, one by the purchaser, and one by the two referees thus selected, whose award shall be binding upon the parties. The expenses of such arbitrament, if any, shall be borne in equal proportions by the buyer and seller.

Arbitrament
in case of
disagree-
ment as to
price of
apparatus.

SEC. 4. Every railroad company violating the provisions of this act, shall be liable to a forfeiture of not more than five hundred dollars nor less than one hundred dollars, to be recovered in an action of debt upon the complaint of any person before a justice of the peace in any county in which such violation may occur; one-half the penalty shall go to the complainant, and the other half to the State of Ohio, for the benefit of common schools.

Forfeiture
for violation
of this act.

SEC. 5. This act shall take effect on the first day of November next.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed May 4, 1869.

AN ACT

Prescribing the rate of Taxation for county purposes, and to repeal an act entitled "an act to amend the fifth section of an act prescribing the rates of taxation for State, county, township, city and other purposes, as amended by an act passed April 14, 1853 [1863], and further amended by an act passed March 30, 1864; and to amend the second section of said entitled act, as amended by an act passed March 30, 1864;" passed April 7, 1865. (S. & S., 773.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the county commissioners are hereby authorized annually, at their June session, to levy on each

Rates pre-
scribed for
county pur-
poses.

dollar of the taxable property of their respective counties, as valued and entered on the list of taxable property of such county, taxes at the rates herein specified, namely: For the payment of the principal and interest of the debts of the county, and all county expenses other than expenditures for roads, bridges, public county buildings, sites therefor, and the purchase of lands for infirmary purposes, where the amount of such taxable property does not exceed two millions dollars, not to exceed seven mills; where the amount of such taxable property exceeds two millions and does not exceed three millions dollars, not to exceed six mills; where the amount of such taxable property exceeds three millions and does not exceed six millions dollars, not to exceed four mills; where the amount of such taxable property exceeds six millions and does not exceed ten millions dollars, not to exceed three mills; where the amount of such taxable property exceeds ten millions and does not exceed forty millions dollars, not to exceed two mills; and where the amount of such taxable property exceeds forty millions dollars, not to exceed one mill; for the purpose of building public county buildings, purchasing sites therefor, and lands for infirmary purposes, where the amount of such taxable property does not exceed two millions dollars, not to exceed six mills; where the amount of such taxable property exceeds two millions and does not exceed three millions dollars, not to exceed five mills; where the amount of such taxable property exceeds three millions and does not exceed six millions dollars, not to exceed four mills; where the amount of such taxable property exceeds six millions and does not exceed ten millions dollars, not to exceed two mills; where the amount of such taxable property exceeds ten millions and does not exceed forty millions dollars, not to exceed one mill and five-tenths; and where the amount of such taxable property exceeds forty millions, not to exceed one mill; provided, that in case any important bridge or bridges belonging to and maintained by any county shall be destroyed by any casualty, and the restoration thereof may be necessary for public accommodation, the commissioners of such county may levy a special tax for that purpose, not exceeding one-half mill on the dollar, of the taxable property of such county, the proceeds of which tax shall be applied solely to the restoration of such bridge or bridges; and provided, further, that the commissioners of Hamilton county may levy a tax not exceeding four-tenths of one mill on the dollar of the taxable property of said county, to aid in support of Longview Asylum.

Proviso as to
bridges.

—as to Long-
view asy-
lum.

Acts re-
pealed.

SEC. 2. That the act entitled "an act to amend the fifth section of an act prescribing the rates of taxation for State, county, township, city and other purposes," as amended by an act passed April 14, 1863, and further amended by an act passed March 30, 1864, and to amend the second section of said entitled act, as amended by an act passed March 30,

1864, passed April 7, 1865, be and the same is hereby repealed.

SEC. 3. This act shall take effect from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed May 4, 1869.

AN ACT

To authorize Township Trustees to make an additional levy for poor purposes in certain cases.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the trustees of any township which has incurred, or may hereafter incur liabilities for the relief of the poor beyond the amount raised by the levy now authorized by law, shall have power to make an additional levy for the purpose of discharging such liabilities, not exceeding one mill on the dollar of the taxable property of such township.

Additional
levy for poor
purposes.

SEC. 2. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed May 4, 1869.

AN ACT

To change the subdivisions of the Eighth Judicial District, and to provide for the election of one additional Judge of the Court of Common Pleas therein.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That hereafter the subdivisions of the eighth judicial district in the state of Ohio, shall be as follows: The counties of Muskingum, Morgan, Guernsey and Noble shall constitute the first subdivision; the counties of Belmont and Monroe shall constitute the second subdivision; and the counties of Tuscarawas, Harrison and Jefferson shall constitute the third subdivision.

Subdivisions
of eighth
district.

SEC. 2. That the several judges now in office in the first, second, and third subdivisions of said district, as they are now constituted, and their successors in office, shall be the judges of the first, second, and third subdivisions respectively herein described: provided, that nothing herein shall be construed so as to interfere in any way with the holding of courts in said district, as they are now held, prior to the first day of January, A. D. 1870.

Assignment
of judges.

Additional
judge to be
elected.

SEC. 3. That for the eighth judicial district of the state of Ohio, there shall be one additional judge of the court of common pleas, who shall be a resident of the first subdivision, composed of the counties of Muskingum, Morgan, Guernsey and Noble, to be elected by the qualified voters of said counties, as herein provided.

First elec-
tion.

SEC. 4. That the first election for said additional judge shall be held on the first Monday in June, A.D. 1869, and his term of office shall commence on the second Monday in August thereafter.

Duty of
sheriffs.

SEC. 5. That it shall be the duty of the Sheriff in each county in said first subdivision, at least fifteen days prior to the first Monday of June, in the year 1869, and at least fifteen days prior to the second Tuesday of October thereafter, in each year, prior to the expiration of the term of office of such additional [judge], to give notice by proclamation of the time and place of holding the election of such additional judge, which election shall be conducted and the returns thereof made in the same manner as required by law in case of the election of other judges of the court of common pleas, except that the abstract and certificate of the election in said first subdivision shall be transmitted by the clerk of the court of common pleas of Muskingum county to the secretary of state, who shall certify the same to the governor, and thereupon the governor shall issue a commission to each person elected to be such judge.

Salary,
duties &c.,
of additional
judge.

SEC. 6. The said additional judge shall receive the same salary as other judges of the court of common pleas, and when so elected and qualified shall have in all respects the same powers and jurisdiction, and discharge all the duties as are conferred and enjoined by the constitution and laws of this state upon the judges of said court; and any vacancy that may occur in the office of said additional judge, by death, resignation or otherwise, shall be filled as in other cases of vacancy in the office of judge of said court.

SEC. 7. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed May 4, 1869.

AN ACT

To provide for an additional term of the Court of Common Please in Paulding county, for the year 1869.

A term to be
held in June,
1869.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That a term of the court of common pleas shall be held within and for the county of Paulding, on the eighth day of June next, in addition to the other terms of said court now fixed by law, to be held therein for the year 1869.

SEC. 2. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
 J. C. LEE,
President of the Senate.

Passed May 4, 1869.

AN ACT

For the protection of Street Railroad Companies in the State of Ohio.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That if any person shall forge or counterfeit any check, ticket, order or pass, written, printed or engraved, issued by any street railroad company, or owner authorized to do business within the state of Ohio, or shall knowingly have such forged or counterfeit check, ticket, order or pass in possession, with intent to defraud the said company or owner, he shall, on conviction thereof, be imprisoned in the jail of the county not less than one nor more than six months.

Penalty for
 counterfeit-
 ing or forg-
 ing, check or
 pass.

SEC. 2. This act to take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
 J. C. LEE,
President of the Senate.

Passed May 5, 1869.

AN ACT

To amend section one of an act regulating Marriages, passed January 6, 1824. (S. & C., page 855.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section one of the above named act be amended so as to read as follows:

Section 1. That male persons of the age of eighteen years, and female persons of the age of sixteen years, not nearer of kin than second cousins, and not having a husband or wife living, may be joined in marriage; provided, always, that male persons under the age of twenty-one years, and female persons under the age of twenty-one years, shall first obtain the consent of their fathers respectively, and in case of the death or incapacity of their fathers, then of their mothers or guardians.

Who may
 marry, &c.

SEC. 2. This act to take effect on its passage.

F. W. THORNHILL,
Speaker of the House of Representatives,
 J. C. LEE,
President of the Senate.

Passed May 5, 1869.

AN ACT

Making Appropriations for the year 1869, and the first quarter of 1870.

Appropriation.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the following sums, in addition to former appropriations, applied to the same purposes herein expressed, be and the same are hereby appropriated out of any moneys belonging to the General Revenue Fund, to be paid out of the treasury according to law, viz :

AGRICULTURE.

General agricultural purposes.

For the encouragement and improvement of the agricultural interests of the state, to be expended as the state board of agriculture may deem most conducive to that end, and to be paid to the president of said board, three thousand dollars.

Horticultural society.

To the Ohio horticultural society, to be paid to the president thereof, five hundred dollars.

Contingent.

For contingent expenses of the office of the state board of agriculture, five hundred dollars.

ARSENAL.

Labor, tools, fuel, &c.

To pay for labor at the state arsenal, including tools, fuel and materials, one thousand dollars, to be expended under direction of the person or persons who, by law, have charge of the same.

BENEVOLENT INSTITUTIONS.

CENTRAL OHIO LUNATIC ASYLUM.

Salaries.

To pay the salaries of the superintendent, steward and matron of the central lunatic asylum, twenty-four hundred dollars.

NORTHERN OHIO LUNATIC ASYLUM.

Salaries.

To pay the salaries of the superintendent, assistant physicians, steward and matron of the northern lunatic asylum, thirty-eight hundred dollars.

Books, &c.

For books and pictures, two hundred dollars.

Provisions, &c.

For provisions and necessary current expenses and repairs, fifty-three thousand dollars.

Steam engine, &c.

For new steam engine and setting up the same and putting the building in a fire proof condition, in accordance with the recommendations of the trustees, five thousand dollars.

SOUTHERN OHIO LUNATIC ASYLUM.

Salaries.

To pay the salaries of the superintendent, assistant physicians, steward and matron of the southern lunatic asylum, thirty-eight hundred dollars.

Books, &c.

For books and pictures, two hundred dollars.

Provisions, &c.

For provisions and necessary current expenses and repairs, sixty thousand dollars.

For fire walls, iron doors, hose, &c., for fire protection, five thousand dollars.

Fire walls,
&c.

For construction of a sewer through the lands of M. Steffin and Peter Peters, twenty-six hundred dollars.

Construction
of sewer.

To pay under an act passed April, 1869, entitled "an act to provide for the purchase of the right of way and the construction of a sewer through certain lands, for the benefit of the southern Ohio lunatic asylum," to Peter Peters three hundred dollars, to Mathias Steffin twenty-three hundred dollars.

LONGVIEW ASYLUM.

For the Longview asylum, a sum to be computed and ascertained by the auditor of state, agreeably to the laws provided for the constitution of Hamilton county into a separate district for lunatic asylum purposes, and for the erection and government of an asylum therein, and the sum hereby appropriated shall be paid upon like vouchers as in case of the current expenses of other lunatic asylums.

General.

To pay the proper officers of the Longview asylum for the support of such patients as are received from the central district, in accordance with joint resolution of the general assembly, adopted Nov. 25, 1868, subject to conditions of agreement made with the governor, and to be paid upon vouchers approved by him, twenty-eight thousand dollars.

Support of
patients
from central
district.

For the care and support of insane persons of color in said Longview asylum, under the act of April 30, 1869, ten thousand dollars.

For colored
patients.

NEW CENTRAL OHIO LUNATIC ASYLUM AT COLUMBUS.

For work on the new asylum for lunatics at Columbus, the sum of one hundred thousand dollars.

Work, &c.,
on new
building.

NEW LUNATIC ASYLUM AT ATHENS.

To continue the work on the new asylum for lunatics at Athens, in addition to the unexpended balance of former appropriations, the sum of one hundred thousand dollars; said building to be constructed in accordance with the original design, and within the estimates therefor, except that the trustees thereof are hereby authorized to make such changes in the original design as may be necessary to make the building more nearly fire-proof, in accordance with suggestions made by the trustees and architect thereof, at an additional cost not exceeding three thousand dollars.

For work on
building.

DEAF AND DUMB ASYLUM.

To pay the salaries of the superintendent, steward, matrons, physician and teachers, and other employes of the asylum for the deaf and dumb, seventeen thousand eight hundred and seventy-five dollars.

Salaries.

For the purchase of provisions, and other necessary current expenses and repairs of said asylum, thirty-eight thousand dollars.

Provisions,
&c.

Hose, &c.	For the purchase of fourteen hundred feet hose and necessary couplings, pipes and reels, twenty-five hundred dollars.
Repairs.	For repairs of machinery and heating apparatus, three thousand dollars.
Fences, gates &c.	For fences and gates, and for grading and graveling roads and walks, fifteen hundred dollars.
Water attachments.	For water attachments for grounds, five hundred dollars.
Paints.	For paints and painting, one thousand dollars.
Binding department.	For additional machinery for executing the binding at the deaf and dumb asylum, one thousand dollars.
Printing.	For the printing department of the deaf and dumb asylum, twelve hundred dollars.

ASYLUM FOR THE BLIND.

Salaries.	To pay the salaries of the superintendent, steward, matrons, physician and teachers of the asylum for the blind, eight thousand five hundred dollars.
Provisions, &c.	For the purchase of provisions and to pay other necessary current expenses, nineteen thousand dollars.
Repairs.	For necessary repairs to buildings, five hundred dollars.
Erection of new building.	For the erection of a building for a blind asylum on the grounds of the present blind asylum, there is hereby re-appropriated the balance now in the treasury, heretofore appropriated for that purpose, and in addition thereto the sum of fifty thousand dollars.

ASYLUM FOR IDIOTS.

Salaries.	To pay the salaries of superintendent, matrons and teachers of the asylum for idiots, three thousand three hundred dollars.
Provisions, &c.	For the purchase of provisions, and for the necessary current expenses, twenty-six thousand dollars.
Building, grounds, &c.	For the completion of the building, grounds, fencing, furnishing, &c., seventeen thousand two hundred dollars and eighty-seven cents.

TRUSTEES.

Expenses, &c.	To pay the expenses of the trustees or the benevolent institutions, including the expenses of the board of state charities, thirty-five hundred dollars.
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BOUNTIES FOR VETERANS.

Bounties.	To pay bounties to veteran volunteers, under the provisions of the several acts regulating the payment of such bounties, five thousand dollars.
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MILITARY CLAIMS.

Claims allowed.	To pay claims allowed or to be allowed under the act of April 6, 1866, (63 O. L., p. 157) including any claims outstanding which may have been allowed by the boards of military claims of 1862, 1863, 1864 and 1865, and including accounts that may be allowed under the provisions of section 2
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of an act making appropriations for the year 1867 and the first quarter of the year 1868, (64 O. L. p. 225) the sum of sixteen thousand dollars.

CONTINGENT EXPENSES OF GOVERNOR AND OTHER OFFICERS.

For the governor's contingent expenses, three thousand dollars.	Governor.
For the contingent expenses of the auditor of state, two thousand six hundred and fifty dollars.	Auditor.
For the contingent expenses of the treasurer of state, five hundred dollars.	Treasurer.
For the contingent expenses of the secretary of state, fifteen hundred dollars.	Secretary.
For the contingent expenses of the comptroller of the treasury, seven hundred dollars.	Comptroller.
For the contingent and traveling expenses of the commissioner of common schools, eight hundred dollars.	School commissioner.
For contingent expenses of office of commissioner of railroads and telegraphs, five hundred dollars.	Railroad commissioner.
For contingent expenses of the state librarian, four hundred dollars.	Librarian.
For contingent expenses of the supreme court, including per diem of messenger, five hundred dollars.	Supreme court.
For contingent expenses of the clerk of the supreme court, two hundred dollars.	Clerk.

LEGISLATURE.

To pay the members of the general assembly, their clerks, assistant clerks, sergeant-at-arms, assistant sergeants-at-arms and messengers, under resolutions and the laws, twenty-five thousand dollars.	Members and officers.
For the contingent expenses of the general assembly, to be paid upon vouchers approved by the president of the senate and the speaker of the house respectively, five hundred dollars.	Contingent expenses.
For the expenses of the standing and special committees of both branches of the general assembly, including for services during interim, five hundred dollars.	Committees.

LIBRARIES.

To purchase books, magazines and newspapers for the state library, twenty-five hundred dollars.	State library.
To purchase books for the law library of the supreme court, under the direction of the chief justice, one thousand dollars.	Law library.

OHIO PENITENTIARY.

To pay the salaries of warden and other officers and guards, and the per diem and expenses of directors of the Ohio penitentiary, as provided by law, forty-six thousand dollars.	Salaries.
For provisions and current expenses, sixty-five thousand dollars.	Provisions, &c.
For enlargement and ordinary repairs, ten thousand dollars.	Repairs, &c.
For rewards to convicts for diligence and good conduct, seven thousand dollars.	Rewards, &c.

- Overwork.** To refund to convicts moneys received into the state treasury for overwork, a sum not exceeding the amount so received or remaining in the treasury unexpended, together with the further sum of nine hundred and nineteen dollars and four cents, ascertained to be due to said convicts, being the amount of a deficiency growing out of irregularities in the management of the affairs of the penitentiary several years since.
- Books.** For library and school books, one thousand dollars.
- Costs of prosecution, &c.** To pay the costs of prosecution and transportation of convicts to the Ohio penitentiary, twenty-seven thousand dollars.

REFORM FARM SCHOOL.

- Salaries.** To pay the salaries of the acting commissioner, matron, teachers and other officers and employes of the Ohio reform farm school, eight thousand dollars.
- Expenses.** For the current expenses of maintaining and educating the youth committed and admitted to the Ohio reform school, twenty-six thousand dollars.
- New buildings.** For two new family buildings and furnishing the same, four thousand dollars.
- Shop.** For one shop building, five thousand dollars.
- Books.** For library books for the benefit of the youth committed and admitted to the Ohio reform farm, five hundred dollars.

SALARIES OF STATE OFFICERS AND CLERKS.

- Officers' salaries.** To pay the salaries of the governor, lieutenant governor, auditor of state, treasurer of state, secretary of state, comptroller of the treasury, state commissioner of common schools, attorney general, clerk of the supreme court, private secretary of the governor, commissioner of railroads and telegraphs, state librarian, law librarian, supervisor of public printing, and superintendent of the state house, twenty-two thousand dollars.
- Judges.** To pay the salaries of the judges of the supreme court, courts of common pleas and superior courts, one hundred and twenty-one thousand dollars.
- Auditor's clerks.** To pay the clerks in the office of the auditor of state, eight thousand five hundred dollars.
- Treasurer's.** To pay the clerks in the office of the treasurer of state, four thousand and ninety dollars.
- Secretary's.** To pay the clerks in the office of the secretary of state, twenty-six hundred and seventeen dollars and fifty-five cents.
- Bureau of statistics.** To pay for the necessary services required to carry out the provisions of the act creating a bureau of statistics in the office of the secretary of state, passed April 17, 1868, (65 O. L., p. 92) five hundred dollars.
- Comptroller's clerks.** To pay the clerks in the office of the comptroller of the treasury, twenty-five hundred dollars.
- School commissioners.** To pay the clerks in the office of the state commissioner of common schools, fifteen hundred dollars.
- Military claims clerk.** To pay one clerk and the necessary expenses of the board of commissioners of military claims, six hundred dollars.

To pay the clerk in the office of the commissioner of railroads and telegraphs, nine hundred dollars.	Railroad commr's.
To pay for necessary clerk hire and expenses of carrying out the provisions of the insurance laws, five thousand dollars.	Insurance.
To pay the salary of the reporter of the supreme court, three hundred dollars.	Reporter.
To pay one clerk in the office of the attorney general, six hundred dollars.	Attorney general's.
To pay the adjutant general, fifteen hundred dollars.	Adjutant's
To pay the clerks in the office of the adjutant general, three thousand dollars.	Adjutant's clerks.
To pay one clerk for the executive department, twelve hundred dollars.	Governor's clerk.

STATIONERY, PRINTING AND BINDING.

For stationery and blank books, including printing paper and articles necessary for the general assembly and public offices in the state house, twenty-six thousand five hundred dollars.	Paper, &c.
To pay for printing for the state, ten thousand dollars.	Printing.
To pay for binding for the state, eleven thousand dollars, and the expenses necessary for executing the binding at the deaf and dumb asylum shall be paid upon vouchers certified by the supervisor of public printing and binding, and approved by the superintendent of said asylum.	Binding.
The expense of publishing the Ohio agricultural report for the year 1868, in pursuance of joint resolution passed April 30, 1868, (65 O. L., p. 297) and in accordance with the act passed March 24, 1860, and the acts supplementary thereto, shall be paid out of the last three appropriations.	Agricultural report.

STATE HOUSE.

To pay the ordinary expenses of taking care of the state house and grounds and preparing the halls for the general assembly, two thousand dollars.	Care of state house.
To pay for fuel for the state house, four thousand dollars.	Fuel.
To pay for gas for lighting the state house, four thousand dollars.	Gas.
To pay for labor and other necessary expenses of the heating apparatus of the state house, thirteen hundred dollars.	Labor, &c.
For repairs to the engine and boilers, five hundred dollars.	Repairs, &c.
To pay the night-watch at the state house, to be employed by the treasurer of state, and who shall serve as night-watch for the state house generally, six hundred dollars.	Night-watch
For paving on the north and south sides of the state house square, nine thousand nine hundred and ninety-nine dollars, to be expended under the direction of the governor.	Paving.

MISCELLANEOUS.

For the distribution of laws, journals and public documents, including Swan & Saylor's supplement to revised statutes, twenty-five hundred and sixty-five dollars.	Distribution of laws, &c.
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Treasurer's
mileage.

To pay the mileage of county treasurers in settling with the auditor of state, the distances to be computed by the nearest usual routes of public travel from the county seats to the seat of government, thirty-seven hundred dollars.

Cases for
treasury.

To pay for additional cases for vouchers in the state treasury, four hundred dollars.

Carpet.

To pay for a carpet for the state treasury, three hundred and seventy-five dollars.

Carpet.

To pay for a carpet for the secretary of state's office, five hundred and fifty-eight dollars.

Carpet.

To pay for a carpet, and for painting, in the office of the auditor of state, five hundred and seventy-five dollars.

Carpet.

To pay for a carpet for the consultation room of the supreme court, three hundred and eleven dollars.

W. T. Carroll.

To pay the estate of W. T. Carroll, deceased, late clerk of the supreme court of the United States, for costs on an appeal from the circuit court of the United States for Ohio, taken by F. M. Wright, auditor, W. B. Thrall, comptroller, and A. P. Stone, treasurer of the state of Ohio, against W. F. A. Sill, adjudged against the appellants March 18, 1863, and for costs on a writ of error to supreme court of Ohio, taken by Franklin Branch of the State Bank of Ohio, against the state of Ohio, adjudged against the state of Ohio April 24, 1862, one hundred forty-five dollars and forty-seven cents.

Isaac Stanley,
&c.

To refund to Isaac Stanley, H. B. Lindley and Frank Atkins the amount paid by them for ten acres of land in Vinton county, being part of lot No. 4 of 160 acres, the southeast quarter of section twenty-six, town ten, range fifteen, which had previously been conveyed to Elijah Jones by deed of the governor of Ohio, dated February 22, 1855, and also included in deed from the governor of Ohio to said Stanley, Lindley and Atkins, dated October 15, 1866, seventy-five dollars, with interest from August 22, 1866, to date of passage of this act.

Indexing, &c.

For indexing journals of the executive department from 1831 to 1856, inclusive, five hundred dollars.

Special elections.

To pay expenses of special elections, three hundred dollars.

Appraisal,
&c.

To pay expenses of appraisal and sale of lands, three hundred dollars.

Transportation of
soldiers.

To pay for transportation of soldiers and others, there is hereby re-appropriated the unexpended balance of all moneys that have heretofore been received from the same source, to be paid upon accounts duly approved by the governor or some officer authorized by him so to do.

Morgan raid.

To pay claims for damages growing out of the Morgan raid through Ohio in 1863, in accordance with the report of the commissioners of Morgan raid claims, appointed under act of March 30, 1864, and a report of commissioners appointed under act of May 5th, 1868, five hundred and eighty thousand eight hundred and thirty-seven dollars, as follows: For damages to property taken, injured or destroyed by the rebel forces, four hundred and thirty thousand nine hundred and sixty-nine dollars; for damages to property taken, injured or destroyed by the union forces under command of United

States officers, one hundred forty-three thousand six hundred and eleven dollars; for damages to property taken, injured or destroyed by the union forces not under command of United States officers, six thousand two hundred and fifty-seven dollars.

The official report of the commissioners appointed under the act of March 30th, 1864, entitled "an act to provide for the appointment of commissioners to examine claims growing out of the Morgan raid and prescribing their duties," heretofore filed with the governor of the state, shall be conclusive of the several sums allowed to individuals and of the parties to whom the same may be due; and the governor is hereby authorized and required to deliver to the auditor of state a certified abstract of the claims allowed by said commissioners as appears by said report; and the auditor shall draw his warrant on the treasurer of state in favor of each claimant, for his, her or their claim, and deliver the same, on demand, to such claimant, or his, her or their legal representatives; provided, that nothing in this act contained shall require or authorize said auditor to draw and deliver his warrant to such claimant or claimants, until such claimant, his legal representatives, shall make and file with said auditor an affidavit to the effect that neither such claimant or claimants, his, her or their heirs, legal representatives or assigns, have ever received any compensation whatever, either directly or indirectly, from the United States government, nor from any other source, for or on account of such claim.

To provide for executing the provisions of the act of the general assembly of this state, passed April 3, 1869, as follows:

For salary of chief geologist, three thousand dollars; for salaries of assistant geologists, not exceeding three in number, eighteen hundred dollars each.

For chemicals, five hundred dollars.

For contingent expenses of the survey, including actual traveling expenses of the geological corps, and hire of local assistants, five thousand dollars.

For services of chaplain D. W. Talford in making lists and plats of the plans of burial of the "federal and confederate soldiers buried in this state," five hundred dollars.

To pay messenger for state librarian, five hundred dollars.

To pay the legal representatives of the late Dr. Goodale, the purchase money of a lot of land lying north of and adjoining the penitentiary grounds, agreeably to a resolution adopted May 16, 1868, twenty thousand dollars.

To pay the architect employed by the committee on public buildings, under H. B. No. 247, and H. J. R. No. 117, two hundred and twenty dollars.

To purchase Ohio state reports, fifteen hundred and seventy-five dollars.

PUBLIC WORKS—CANAL FUND.

SEC. 2. That there is hereby appropriated from any money belonging to the canal fund, or which may be derived from the lease or use of the public works of the state, as follows:

Directions.

Salary of chief geologist and assistants.
Chemicals.
Contingent expenses.

D. W. Talford

Messenger for librarian.
Land for penitentiary.

Architect.

Ohio State reports.

Salaries of board.	To pay the salaries of the members of the board of public works, twenty-four hundred dollars.
Engineers.	To pay the salaries of the resident engineers of the public works, thirty-six hundred dollars.
Clerk.	To pay the salary of the clerk of the board of public works, twelve hundred dollars.
Attorneys fees, &c.	To pay attorneys' fees and incidental expenses of the board of public works, to include fees and costs of maintaining the title of the state to lands in the city of Cincinnati, which have been leased to Thomas Brown and Adolph Wood, two thousand dollars.
Culvert.	To finish the culvert at Antwerp, Paulding county, five hundred dollars.
Side cut.	To complete the work on Gilead side cut, five hundred dollars.
Rebuilding culvert at Cleveland.	For the purpose of rebuilding culvert on the premises of Charles Reeves, over the Ohio canal, near the corporation line of the city of Cleveland, the sum of three thousand dollars; provided, that before any of the money herein appropriated is expended, the board of public works shall procure from said Reeves and the owners of adjoining land, releases of all claims against the state, for any damages which may have heretofore been caused on account of any defect in the present culvert, on condition of the rebuilding of said culvert.
T. J. Mills & Co.	To pay balance due on contract with T. J. Mills & Co., in 1865, for work done on south fork of Licking Feeder, thirty-one dollars and eleven cents.
Erastus Pond.	To pay claim of Erastus Pond, for interest at the rate of six per cent. per annum upon sundry payments for work on the Ohio canal and Muskingum improvement, from the time when they were due according to terms of contract, to wit: December, 15, 1860, to the dates of actual payment by the state, seven hundred and eighty-six dollars and ninety-five cents.
Repairs of lock at Sandyville.	To pay for repairs of lock at the head of slack water pool near the town of Sandyville, in Tuscarawas county, three thousand dollars; and each member of the board of public works shall be entitled to receive, in addition to his salary, the sum of four hundred dollars, to defray traveling and other necessary expenses, in making investigations directed by the general assembly at its present session, and the further sum of twelve hundred dollars is hereby appropriated to pay such expenses.
Ditching river.	For ditching the channel of Big Beaver river, in Mercer county, twenty thousand dollars, in pursuance of the terms of the act, passed April 29, 1869.

NATIONAL ROAD.

Superintendence and repairs.

SEC. 3. For superintendence and repairs on the national road, for one year from the 15th of February, 1869, there is hereby appropriated whatever sums may be collected and paid into the state treasury to the credit of the national road fund, during said period of one year, together with the unexpended collections of the year previous, applicable to the same purpose.

COMMON SCHOOLS.

SEC. 4. There is hereby appropriated from any moneys raised or accruing in the state treasury, for the support of common schools, one million five hundred thousand dollars, or so much as may come into said treasury for such purpose, to be distributed and paid in the manner prescribed by law.

INTEREST AND SINKING FUND.

SEC. 5. There is hereby appropriated from any money in the treasury, by transfer or otherwise, and that may come into the treasury belonging to the sinking fund, as follows:

To pay interest on the funded (foreign and domestic) debt of the state, six hundred thousand dollars.

To pay the interest on the irreducible debt or trust funds held by the state, including accumulation of interest accrued to the agricultural college fund, two hundred sixty-four thousand eight hundred sixty-one dollars and five cents.

To pay upon the principal of the funded (foreign and domestic) debt of the state, as required by the constitution and explained in act passed April 2, 1859, [56 O. L. p. 105,] two hundred and fifty-four thousand and thirty-five dollars.

To pay the expenses of the office of the commissioners of the sinking fund, including salary of clerk, three thousand dollars.

To pay balance due to Rufus L. Lord for rent of office in New York city, four hundred dollars.

To pay the judgment rendered by the court of common pleas of Franklin county at its November term, in the year 1868, against the state, in the case of the state of Ohio against James P. Kilbreth, trustee of the Ohio Life Insurance and Trust Company, the sum of seventy-nine thousand five hundred thirty-three dollars and eighty-one cents, the amount of said judgment when rendered on the 12th day of January, 1869, with interest on said sum from said 12th day of January, 1869, to the date of the passage of this act.

To pay the costs of said suit adjudged against the State, the sum of one hundred and twelve dollars and fifty cents.

SEC. 6. The auditor of state is hereby authorized and required to transfer during the year 1869, the sum of two hundred thousand dollars from the sinking fund to the general revenue fund, to be repaid to the sinking fund by like transfer or transfers, from the general revenue fund to the sinking fund, when there shall be a surplus in the general revenue fund over and above all demands upon it authorized by law; and that the auditor of state also transfer the sum of twenty-five thousand dollars from the canal fund to the general revenue fund. Said auditor is also hereby authorized to transfer any funds in the treasury, not otherwise herein appropriated, to the general revenue fund, as the same may become necessary, together with all unexpended balances of former appropriations for general revenue purposes. And when such transfers are made, the auditor of state shall certify the same

General.

Interest on debt.

Irreducible debt.

Principal.

Sinking fund commissioners.

Rufus L. Lord.

Judgment and interest.

Costs.

Transfers.

to the treasurer of state and comptroller of the treasury, who shall enter the same in the books of their respective offices.

SEC. 7. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed May 5, 1869.

AN ACT

To establish a reform and industrial School for Girls.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That there shall be established, on land conveyed to the state of Ohio for the purpose, a school for the instruction, employment and reformation of exposed, helpless, evil disposed and vicious girls, to be called the State Reform and Industrial School for Girls; and the government of said school shall be vested in a board of five trustees, to be appointed and commissioned by the governor, by and with the advice and consent of the senate, whose term of office shall be for five years, and until their successors are appointed and qualified, except those first appointed, one of whom shall hold his office for the term of one year, one for two years, one for three years, one for four years, and one for five years from the date of appointment, and their terms shall be designated by the governor; two of whom shall be residents of the county in which such school is located. If any vacancy shall occur in said board by resignation or otherwise, during the recess of the general assembly, it shall be the duty of the governor to fill said vacancy by appointment, and the person so appointed shall hold his office until the next session of the general assembly, and for twenty days after the commencement of said session. The trustees shall receive no compensation for their services, but shall be paid their necessary expenses by the state treasurer on the order of the auditor.

SEC. 2. Before entering upon the discharge of their duties, they shall take, and subscribe to an oath or affirmation, to obey the constitution of the United States and of the state of Ohio, and faithfully to discharge the duties of their office, which shall be recorded in their journal. They shall organize by electing a president and secretary, who shall be of their number, and a treasurer, who may or may not be of their number. The treasurer, before entering upon the discharge of the duties of his office, shall give a bond in the sum of ten thousand dollars, with good and sufficient sureties, to be accepted by the governor, and deposited with the treasurer of state, conditioned for the faithful discharge of his duties as treasurer, and that he will properly account for all money that may come into his hands by virtue of his office.

Establishment of a reform school for girls.

Trustees to be appointed

Oath and organization of trustees.

SEC. 3. When the buildings are ready for occupancy, the trustees shall give notice of the fact, and shall take charge of the general interests of the institution, shall see that its affairs are conducted in accordance with the requirements of the legislature, and of such by-laws as the board may, from time to time, adopt (subject to the approval of the governor) for the orderly and economical management of its concerns; they shall see that strict discipline is maintained therein; shall provide employment for the inmates and bind them out, discharge or remove them as is hereinafter provided. They shall appoint a superintendent, who shall hold his office for three years, unless sooner removed by them for cause, and such other officers to be nominated by the superintendent as in their judgment the wants of the institution may require, and prescribe their duties, remove them at pleasure, appoint others in their stead, determine their salaries respectively, and exercise general supervision over the institution. A majority of said board shall constitute a quorum.

Duties of trustees.

Superintendent.

SEC. 4. All salaries shall be paid quarterly on the certificate of the president and secretary of said board, by an order drawn by the auditor of state on the state treasury, and all money for building purposes or current expenses shall be drawn in like manner, but not more than two thousand dollars shall be drawn at one time from the state treasury. Said board shall report annually to the governor on or before the first day of December. The said report shall contain full and detailed accounts of all payments made and moneys received, and the true condition of the institution; which report, together with the report of the superintendent and treasurer, the governor shall have printed, and shall transmit the same to the general assembly. No trustee, superintendent, officer or employe of said institution, shall be interested in any sale, trade, or any business carried on in said institution; and for any violation of this provision, such officer or employe shall be subject to a fine of not less than one hundred dollars nor more than one thousand dollars.

Salaries, annual report, &c.

Report.

SEC. 5. The said board of trustees shall receive and hold, or invest, all legacies, devises, bequests or donations made to the school of every description, in behalf of the state, for the purposes of this act.

Legacies, devises, &c.

SEC. 6. It shall be the duty of said board to direct the general management of the farm as regards its productions, mechanical, agricultural and horticultural; and for this purpose may employ suitable superintendents to superintend the different producing interests prosecuted on said farm; but no provisions contained in this act shall be so construed as to authorize the letting of the labor of any of the inmates of the institution to any person or persons for the purpose of manufacturing; but said labor shall be employed by the superintendent exclusively in the interests of the institution. And the superintendent shall cause the accounts of the institution to be so kept, that the profits over and above the expense of maintaining the school, can be ascertained, and when thus ascertained, the board of trustees shall fund such annual

Duties of the board.

profits of the institution, for distribution among the girls, in shares to be paid to the girls *pro rata*, when either of them may be honorably discharged from the institution. They shall also see that such productions as are not needed by the institution are sold to the best advantage. The value of all productions, whether used or sold, shall be duly accounted for in the annual report.

Disposition
of girls
brought
before pro-
bate court,
&c.

SEC. 7. Whenever any girl above the age of seven and under the age of sixteen years, shall be brought by any constable or police officer, or other inhabitant of any town or city or township of any county in this state, before any probate court of the proper county, upon the allegation or complaint that said girl has committed any offense known to the laws of this state, punishable by fine and imprisonment other than such as may be punished by imprisonment for life, or that she is leading an idle, vagrant or vicious life, or has been found in any street, highway or public place within this state in circumstances of want and suffering, or of neglect, exposure or abandonment, or of beggary, it shall be the duty of said probate judge to forthwith issue an order in writing, addressed to the father of said girl, if he be living and resident of the town, township or city where said girl may be found, and if not then to her mother, if she be living and so resident, and if there be no father nor mother, resident as aforesaid, then to her guardian, if any there be, and if there be no guardian, then to the person with whom the girl shall reside, which order shall require said father, mother, guardian, or other person, as the case may be, to appear before said probate judge at some time and place to be therein named, to show cause, if any there be, why said girl shall not be committed to the reform school for girls established by this act; and upon the appearance of the party named in said order, or failure to appear upon the expiration of the time named in the order for said appearance, said judge shall proceed to examine said girl and party, and hear such testimony as may be presented before him in relation to the case; and should it appear to the satisfaction of the judge aforesaid that the girl is a suitable subject for the reform school established by this act, he shall commit said girl to the same, and for that purpose he shall issue his warrant to the sheriff of the proper county, or to some suitable person to be appointed by him, commanding him to take charge of said girl and to deliver her without delay to the superintendent of said school; and the fees of the probate judge, the sheriff, and other costs incurred in said proceedings, shall be the same as are paid in similar cases under the laws now in force, and shall be paid by the proper county in the same manner; provided, that nothing in this act shall be construed to prevent any girl arrested for crime from demanding a trial by jury; and when any such demand is made by or on behalf of such girl, the probate judge is hereby authorized, after an examination of the case, in his discretion, to either discharge her, or cause her to enter into a recognizance for her appearance before the court of common pleas of the county, forthwith if said court

Fees.

Proviso as to
trial by jury.

be in session, and if not in session, then at the first day of the next term thereof, to answer to such charge; and in default of such bail, to commit her to the jail of the county until the first day of said next term of common pleas court, or until discharged by due course of law, and shall forward to the clerk of said common pleas court a transcript of his proceedings in the case; and shall also cause such witnesses as may appear against her before him, to be recognized to appear at the said term of common pleas court to give evidence against her.

SEC. 8. Any girl duly committed to said school, shall there be kept, disciplined, instructed, employed and governed under the direction of said board of trustees, until she be either reformed and discharged, or shall be bound out by said trustees according to their by-laws, or shall have attained the age of eighteen years; provided, that the trustees shall have the right to discharge and return to the parents, guardian or protector, any girl who, in their judgment, ought for any cause to be removed from said school; and in such case the trustees shall enter upon their records the reasons for her discharge, a copy of which record, signed by their secretary, shall be forthwith transmitted to the probate judge by whom the girl was committed.

Detention,
discharge
&c., of
girls committed.

SEC. 9. Whenever any girl between the ages of seven and sixteen years, shall be brought before any justice of the peace, or police court, or court of criminal jurisdiction, charged with any offense punishable by fine or imprisonment, other than imprisonment for life, and if found guilty would be a proper subject for commitment to said industrial school, an order to that effect shall be entered on the records of the proceedings of said justice or court, and thereupon it shall be the duty of said justice or court, by warrant in due form of law, or order, to cause such girl to be forthwith taken before the probate judge of the proper county, and transmit to said probate judge the complaint and indictment or warrant by virtue of which she shall have been arrested, and thereupon the probate judge shall proceed in the same manner as if she had been brought before him upon original complaint as is provided in this act.

Duty of justices and probate judges.

SEC. 10. The trustees may bind out as an apprentice or servant, any girl committed to their charge, for a term not longer than until she arrives at the age of eighteen years; and the person to whom the girl is bound, shall, by the terms of the indenture, be required to report to the trustees as often as once in six months, her conduct and behavior, and whether she is still living under his care, and if not, where she is.

Girls may be bound as apprentices, &c.

SEC. 11. A person receiving an apprentice under the provisions of the last section, shall not assign or transfer the indenture of apprenticeship, nor let out her services for any period without the consent in writing of the trustees. If the person for any cause, desires to be relieved from the contract, the trustees, upon application, may in their discretion cancel the indenture, and resume the charge and management of the girl, and shall have the same power and authority in regard to her as before the indenture was made.

As to transfer of indentures.

As to ill
treatment of
indentured
apprentice.

SEC. 12. If the person is guilty of cruelty or misusage towards the girl so bound to service, or of any violation of the terms of the indenture, the girl or trustees may make complaint to the probate judge of the proper county, who shall summon the parties before him and examine into the complaint, and if it appear to be well founded, he shall, by certificate under his hand, discharge the girl from all obligations of future service, and restore her to the school, to be managed as before her indenture.

Trustees to
be guardians.

SEC. 13. The trustees shall be the guardians of every girl so bound or held to service, and shall take care that the terms of the contract are faithfully fulfilled, and that she is properly treated, and shall cause any grievance to be redressed.

Superintend-
ent to have
custody of
girls, &c.

SEC. 14. The superintendent, with such subordinate officers as the trustees may appoint, shall have the general charge and custody of the girls. He shall be a constant resident at the school, and under the direction of the trustees shall discipline, govern, instruct and employ, and use his best endeavors to reform, in such manner as shall, while preserving their health and promoting the proper development of their physical system, secure the formation, as far as possible, of moral, religious and industrious habits, and regular thorough progress and improvement in their studies, trades and employments.

His bond, re-
sponsibility,
&c.

SEC. 15. He shall, before he enters upon the duties of his office, give a bond to the state of Ohio, with sureties satisfactory to the trustees, in the sum of ten thousand dollars, conditioned that he shall faithfully perform all his duties, and account for all moneys received by him as superintendent, which bond, when approved, shall be filed with the treasurer of state. He shall have charge of all property pertaining to the school within the precincts thereof, and shall keep in suitable books complete accounts of all his receipts and expenditures, and of all property intrusted to him, showing the income and expenses of the institution, and shall account to the treasurer in such manner as the trustees may require, for all money received by him. His books, accounts and documents relating to the school, shall at all times be open to the inspection of the trustees. He shall keep a register containing the name and age of each girl, and as far as possible the circumstances connected with her history prior to the time of her admission to the school, and he shall add thereto such facts as may come to his knowledge relating to her history while at the institution and after leaving it.

Contracts,
how made,
&c

SEC. 16. All contracts on account of the institution, shall be made by the superintendent in writing, and approved by the trustees if their by-laws require it, and the superintendent or his successor may sue thereon, to final judgment and execution. No suit shall abate by reason of the office of superintendent becoming vacant, but any successor in office may take upon himself the prosecution or defense thereof, and upon motion of the adverse party and notice he shall be required to do so.

Monthly vis-
its, and reg-

SEC. 17. One or both of the resident trustees, shall visit the institution at least once a month, at which time the girls

shall be examined in the school rooms and work shops, and the register inspected. A record shall be kept of these visits in the books of the superintendent. Once in every three months the school in all its departments shall be thoroughly examined by a majority of the trustees, and a report thereof entered upon record. istry thereof.

SEC. 18. The salary of the superintendent shall be at the rate of twelve hundred dollars per annum, and of the principal matron four hundred dollars per annum. Salary of superintendent and matron.

SEC. 19. No trustee, superintendent, officer or employe connected with the institution, shall contract any debts for the institution in excess of the appropriations, and for any debts thus contracted said trustee, officer or employe shall be liable in his individual capacity. No debts to be contracted.

SEC. 20. That said board of trustees, when appointed and organized under the provisions of this act, is authorized, empowered, and hereby is directed forthwith to purchase from the proprietor the property known as the "Ohio White Sulphur Springs," situated on the Scioto river, in Delaware county, containing one hundred and eighty-nine acres of land, with all the buildings and appurtenances to the same belonging, the title to be examined and approved by the attorney general; provided, the consideration to be paid by said board of trustees for the premises aforesaid, shall not exceed the sum of fifty-five thousand dollars; which sum shall be paid on the order of said trustees upon the warrant of the auditor of state out of moneys in the treasury not otherwise appropriated; and the sum of fifty-five thousand dollars is hereby appropriated for that purpose. Trustees to purchase "Ohio White Sulphur Springs."

Appropriation.

SEC. 21. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed May 5, 1869.

AN ACT

To reimburse persons for arresting those charged with criminal offenses.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That whenever any person (or persons) charged with the commission of any crime, the punishment whereof shall be confinement in the penitentiary, and shall have entered into recognizance for appearance before the proper criminal court, and such recognizance shall become absolutely forfeited, it shall be lawful for the commissioners of the proper county to cause to be paid out of the moneys collected from Costs to be paid out of forfeited recognizance in certain cases.

the recognizance so forfeited, all expenses incurred by any person or persons in addition to the fees now allowed by law in procuring the arrest of the person or persons so charged with the commission of said crime.

SEC. 2. This act shall be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed May 6, 1869.

AN ACT

To amend section six of an act entitled an act supplementary to an act passed March 14, 1853, entitled an act to provide for the reorganization, supervision and maintenance of Common Schools. (O. L., vol. 64, pages 117, 118, 1867,) passed February 21, 1867.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section six of the act entitled "an act supplementary to an act passed March 14, 1853, entitled an act to provide for the reorganization, supervision and maintenance of common schools," passed February 21, 1867, be amended so as to read as follows:

Separate districts to share funds, &c.

Section 6. Any separate school district created under the provisions of this act, shall be entitled to all the school property within the boundaries of such district, and to a pro rata share of all tuition and contingent school funds in the township treasury at the time of the organization of such district, and to a like share of the funds designated that may afterwards come into the township treasury as the proceeds of a levy or levies made prior to such organization; and it is hereby made the duty of all officers having custody of the same, to transfer said custody to the board of education of said separate school district; and the offices of said officers so surrendering their trusts, are hereby abolished, so far as the same may relate to the separate school district created as aforesaid.

SEC. 2. This act shall take effect on its passage.

J. R. COCKERILL,
Speaker pro tem. of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed May 6, 1869.

AN ACT

To establish and fix the standard by which Lard Oil shall be sold, and to provide for the inspection of barrels therefor.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That whenever lard oil shall be sold by the barrel, and no special agreement as to the measurement shall be made by the parties, the standard shall be seven and two-fifths pounds to the gallon.

Standard weight of lard oil.

SEC. 2. That all barrels for lard oil shall be made of sound, well seasoned timber, tightly bound with strong hoops.

Quality of barrels.

SEC. 3. That it shall be the duty of inspectors of the respective counties, to inspect such barrels intended for lard oil, and before filling the same ascertain the true weight of such barrel, and when so inspected and weighed, to mark on the barrel the true weight with marking irons, to be provided by the inspector for that purpose, together with his name and the name of the county.

Inspection of barrels.

SEC. 4. That the inspector shall be entitled to receive ten cents per barrel for each barrel intended for lard oil by him inspected and weighed, when the quantity required to be inspected and weighed at any one time is less than twenty-five barrels; and when the quantity exceeds twenty-five barrels, his fees shall be five cents per barrel; and in all cases five cents per mile for each mile necessarily traveled in the performance of his duty.

Fees for inspection, &c.

SEC. 5. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed May 6, 1869.

AN ACT

To regulate the standard weight per bushel of Stone Coal, and the measure of Cord Wood and Tan Bark.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the standard weight of a bushel of stone coal shall be eighty pounds, avoirdupois, for bituminous coal, and seventy pounds, avoirdupois, for cannel coal, and in places where facilities for weighing can be had, all sales of coal shall be by weight.

Standard weight of stone coal.

SEC. 2. The standard measure of a cord of firewood or tan bark, shall be one hundred and twenty-eight cubic feet, well stowed and packed.

Standard measure of wood.

Repeal.

SEC. 3. An act entitled an act to regulate the standard weight per bushel of stone coal and the measure of cord wood, passed March 31, 1864, is hereby repealed.

SEC. 4. This act shall take effect from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed May 6, 1869.

AN ACT

To amend section one (1) of an act entitled "An act authorizing the removal of Convicts confined in the Penitentiary, for trial on other indictments found, to the county where found."

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section first of an act entitled "an act authorizing the removal of convicts in the penitentiary for trial on other indictments found, to the county where found," passed February 19th, 1866, v. 63, page 20, be amended so as to read as follows:

Removal of
convicts, &c.
in certain
cases.

Section 1. That any convict now or hereafter imprisoned in the penitentiary of this state, under sentence for the commission of any crime punishable by the laws of this state by imprisonment therein, and who has been or hereafter shall be convicted of murder in the first degree, murder in the second degree, manslaughter, or any other crime punishable by the laws of this state by imprisonment in the penitentiary, and who has or heretofore shall escape before receiving sentence for such crime, or who is now or heretofore shall be indicted by any grand jury of the state of Ohio, for murder in the first degree, murder in the second degree, manslaughter, or any other crime punishable by the laws of this state by imprisonment in the penitentiary, may be removed to the county wherein said indictment is pending, or shall have been found, or wherein said party has been or shall be convicted for trial or sentence thereon.

Repeal.

SEC. 2. That section first of the act to which this is amendatory, be and the same is hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed May 6, 1869.

AN ACT

Supplementary to the act entitled "An act to preserve the purity of elections," passed March 20, 1841. (O. L., vol. 39, page 13.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That any person who shall vote at any election held under the laws of this state, not being a white male citizen of the United States, shall, on conviction thereof, be imprisoned in the penitentiary and kept at hard labor not more than five years nor less than one year.

Penalty for voting of a person not a white male citizen.

SEC. 2. Any person who shall procure, aid, assist, counsel or advise any person not being a white male citizen of the United States, to vote at any election held under the laws of this state, shall, on conviction thereof, be imprisoned in the county jail of the proper county, not more than six months nor less than one month; and shall also be liable to a civil action for a penalty in the sum of one thousand dollars, which may be brought against him by any elector of the county or district in which the vote was received, in the court of common pleas of any county where process can be served upon him; provided, that there shall be but one recovery for each violation of this act; and a failure to prosecute or convict shall not in any manner affect the right to proceed for the recovery of such penalty.

Penalty for procuring &c., such vote.

SEC. 3. If any judge of the election shall receive or sanction the reception of a vote from a person not being a white male citizen of the United States, on conviction thereof shall be imprisoned in the jail of the proper county, not more than six months nor less than three months, and shall also be liable to a civil action for a penalty in the sum of one thousand dollars, which may be brought against him by any elector of the county or district in which the vote was received, in the court of common pleas of any county where process can be served upon him; provided, that there shall be but one recovery for each violation of this act, and a failure to prosecute or convict shall not in any manner affect the right to proceed for the recovery of such penalty.

Penalty of judge for receiving such vote.

SEC. 4. All prosecutions under the provisions of this act shall be by indictment before the court of common pleas in the county where the offense was committed; and this act shall be given in charge to the grand jury at each term of the court of common pleas, by the presiding judge thereof.

Prosecutions to be by indictment.

SEC. 5. This act shall be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed May 6, 1869.

AN ACT

To amend an act entitled an "An act to amend section one of an act entitled an act to authorize the establishment of lines of true meridian in (the several counties of) the state of Ohio.

County commissioners to cause true meridian lines to be established.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the commissioners of each and every county in the state of Ohio, be and they are hereby authorized, where the same has not been done, to employ some suitable person of competent skill, to establish at or near the county seat of each county respectively, lines not exceeding forty rods or perches in length, corresponding with the true meridian of the place, and furthermore to simultaneously determine to within one-half of one second of arc the geographical latitude, and to within one and one-half second of arc the geographical longitude of the station occupied by the instrument employed in such operation.

SEC. 2. That this act shall be in force from the date of its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed May 6, 1869.

AN ACT

To authorize township trustees to levy a tax to purchase a site and erect a Township House thereon.

Trustees may levy a tax for township house, etc.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the trustees of any township in this state be and they are hereby authorized to levy a tax on all the taxable property of their township, not exceeding two thousand dollars, to purchase a site and erect a township house; and they are hereby authorized to purchase said site and erect thereon a town house, at a cost for both site and building not exceeding said sum of two thousand dollars.

SEC. 2. This act shall take effect from its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed May 6, 1869.

AN ACT

To amend section twenty of an act entitled "An act to authorize the county commissioners to lay out and establish free turnpike roads, and to repeal certain acts therein named," passed April 15, 1867.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section twenty of the above recited act be so amended as to read as follows :

Section 20. That whenever it shall be made known by petition to the county auditor of any county in this state, that a majority of the freeholders living on the line of any state, county or free turnpike road within such county, desire an extra tax for the construction, improvement or repair of such road, it shall be the duty of said county auditor to levy a tax for that purpose, of any amount that may be desired, not exceeding ten mills on the dollar valuation in any one year, on all lands and taxable property within the bounds of said turnpike road, as described in section six of this act. Said tax shall be for the term of three years, and no longer, unless at the expiration of said three years, the petition shall be renewed, and in that event, such tax shall be levied for the term of three years longer; provided, that if at any time after the first levy is made, the commissioners of any free turnpike road shall be satisfied that the road can be built for a less sum than is provided in this section, the county auditor shall, on the order of the commissioners of said road, reduce said extra tax or abate it entirely; provided, that when any of said freeholders have previously made or have been previously taxed to make any free turnpike already completed or in progress of completion, they shall only be taxed pro rata for the making of the remainder of said turnpike or the continuance thereof; provided further, that where any of said freeholders or those from whom they derive their title have, before the levy of said tax, improved at their own expense, by macadamizing or graveling, any portion of the line of said proposed free turnpike road adjacent to their lands, they shall, if by said improvement said portion has been made and maintained so as to be at that time wholly fit for a free turnpike road, be entirely exempt as to the lands and other property on either side of and opposite to said improved portion, from the payment of said extra tax; and if by said improvement said portion is in part only suitable for a free turnpike road, they shall in like proportion have credit upon said extra tax. Said pro rata tax, exemption or credit, shall be determined by said auditor and the commissioners of said proposed free turnpike road, at any time before the final payment of said extra tax, upon the application of any person interested; but said determination by said auditor may be reviewed and corrected by the court of common pleas, upon the petition of any person claiming such pro rata reduction, exemption or credit; and upon such evidence as may be produced upon the hearing, it shall be the duty of the county treasurer to collect the extra

When auditor shall levy a tax for free turnpike roads.

Term of levy.

Conditions.

tax hereby provided for in the same manner as state and county taxes are collected ; provided, that the words "bounds of the roads," and "line of the road," whenever used in this act, shall be held to include so much land on either side of such road, as may be charged with such extra tax.

Repeal.

SEC. 2. That section twenty of the above recited act be and the same is hereby repealed.

SEC. 3. This act shall be in force from and after its passage.

F. W. THORNHILL,

Speaker of the House of Representatives.

J. C. LEE,

President of the Senate.

Passed May 6, 1869.

AN ACT

To amend section one of an act entitled "an act for the protection of bridges across the Ohio river," passed April 12, 1867, (S. & S., p. 56,) so as to extend the provisions of said act to all bridges erected across rivers within the state of Ohio.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section one of an act entitled an act for the protection of bridges across the Ohio river, be so amended as to read as follows:

Penalty for
destroying
bridge

Section 1. That if any person shall willfully burn or otherwise destroy, or shall willfully attempt to burn or destroy any toll bridge, or any part thereof, erected, or that may hereafter be erected across the Ohio river, or across any river in the state of Ohio, he shall be deemed guilty of felony, and shall be imprisoned in the penitentiary not less than three years, nor more than ten years.

Repeal.

SEC. 2. That the original section one of the above recited act be and the same is hereby repealed.

SEC. 3. This act shall take effect on its passage.

F. W. THORNHILL,

Speaker of the House of Representatives.

J. C. LEE,

President of the Senate.

Passed May 6, 1869.

AN ACT

Supplementary to the act prescribing the fees of county auditors, passed May 1, 1862, as amended April 12, 1865, as amended April 17, 1867.

Allowance to
county audi-
tors.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the county auditor of each county in this state shall receive as additional compensation out of the

county treasury, for the performance of his duties in the assessment and placing upon the tax duplicate of all tax omissions contemplated by the provisions of an act entitled "an act for the assessment and taxation of property in this state, and for the levying taxes thereon according to its true value in money," (S. & C. page 1438) a sum equal to five per cent upon the total amount of said tax omission, collected and paid into the county treasury, and no more.

SEC. 2. Any county auditor who shall fraudulently place or cause to be placed upon the duplicate of any county in this state, as a tax omission, any assessment that was reported to him by any ward or township assessor, that is made to him prior to the third Monday of May, annually, by any tax payer, or that conspires with any such assessor to increase the number or amount of tax omissions, or that shall place or cause to be placed upon the duplicate as a tax omission any assessment made by the board of equalization, shall be deemed and held guilty of a misdemeanor, and on conviction thereof before any court of competent jurisdiction, shall be sentenced by the said court to the same punishment as is provided by law for the punishment of embezzlement; and it is hereby made the duty of the prosecuting attorney of the county to enforce the provisions of this section.

Penalty for
fraudulent
entry, &c.

SEC. 3. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed May 6, 1869.

AN ACT

Providing for the ceding of the Antietam and Gettysburgh Cemeteries to the United States.

WHEREAS, By an act of the thirty-ninth congress of the United States, entitled an act to establish and protect national cemeteries, approved February twenty-second, one thousand eight hundred and sixty-seven, congress has adopted a uniform system for the management and care of all the soldiers' national cemeteries throughout the United States; therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the board of commissioners having charge and care of the soldiers' national cemeteries at Antietam and Gettysburgh, are hereby authorized and empowered to transfer all the right, title, interest and care of said soldiers' national cemeteries, upon the completion of the same, to the government of the United States, the state of Ohio hereby ceding and relinquishing to the United States all its title to the grounds and property of the said cemeteries vested in it

Cession to
U. S.

in trust for the states which participated in the establishment of said national cemeteries. This cession being made upon the condition that the United States government take upon itself the management and care of the said cemeteries, and make provision for their maintenance.

Duty of governor.

SEC. 2. That the governor of this state is hereby authorized and empowered to do all acts and execute all papers upon behalf of this state, necessary to consummate the cession, and to cause a copy of this act to be forwarded to the governors of the several states who have appointed commissioners, and also to the board of commissioners having charge of the soldiers' national cemeteries at Antietam and Gettysburgh, and also to the president, the senate and house of representatives of the United States.

Disposal of residuum funds.

SEC. 3. That it is recommended to the commissioners of the soldiers' national cemeteries, to apply the residuum funds in their hands to the erection of the proposed monuments to the soldier dead in said cemeteries, and if practicable, to increase the dimensions of said monuments.

SEC. 4. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed May 6, 1869.

AN ACT

To amend section three of an act entitled "An act to provide for struck juries, and to secure fairness and impartiality in their selection," passed May 5, 1868. (O. L., vol. 65, p. 140.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section three of the above entitled act be so amended as to read as follows:

Fees and mileage.

Section 3. That the party requiring such struck jury shall pay the fees for striking the same, and two dollars per day for each juror so attending, and such mileage as is or may be allowed by law to petit jurors, and shall not have any allowance therefor in the taxation of costs, unless the court shall be of opinion that the cause required such special jury, in which last case the extraordinary expense shall be taxed in the bill of costs.

Repeal.

SEC. 2. That section three of the above recited act, passed May 5, 1868, be and the same is hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed May 6, 1869.

AN ACT

To amend section one of an act making provision for the incorporation of Cemetery Associations, passed February 24, 1848, (Swan & Critchfield, page 225,) as amended March 9, 1866. (S. & S., p. 168.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That it shall be lawful for any number of persons, not less than ten, who are residents of the county, to form themselves into a cemetery association, and to elect any number of their members, not less than three, to serve as trustees, and one member as clerk, who shall continue in office for one year, or until their successors are chosen; and all such elections shall be had at meetings called, by giving at least twenty days' notice in some newspaper, or by posting at least three written notices at public places in the township; and any number, not less than seven, of the members present at any such meeting, shall be competent to transact any business of the association.

Organization
of cemetery
associations.

SEC. 2. That section one of the above recited act be and the same is hereby repealed.

Repeal.

SEC. 3. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed May 6, 1869.

AN ACT

To amend the act passed April 8, 1856, entitled "An act supplementary to the act entitled an act to provide for the creation and regulation of incorporated companies in the State of Ohio, passed May 1, 1852," and to repeal the act amendatory thereof, passed February 14, 1861, (S. & S., page 169,) entitled an act to amend the act entitled an act supplementary to the act entitled, an act to provide for the creation and regulation of incorporated companies in the State of Ohio, passed May 1, 1852; passed April 8, 1856.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the first section of the above recited act, passed April 8, 1856, shall be so amended as to read as follows:

Section 1. That any number of persons, not less than three, may associate themselves together, as provided in the sixty-third, sixty-fourth, and sixty-fifth sections of the act entitled an act to provide for the creation and regulation

Associations
for hydraulic
and other
purposes.

of incorporated companies in the state of Ohio, passed May 1, A. D. 1852, for the purpose of purchasing and maintaining or of constructing and maintaining a canal or canals for hydraulic purposes, with the necessary culverts, wasteways and fixtures; building, repairing steamboats and other water crafts; building and operating dry docks and marine railways; printing and publishing a newspaper or newspapers, or books or other publications; quarrying stone, marble or slate; boring or digging for oil, salt or for other vegetable, medicinal or mineral fluid, in the earth, and for refining or purifying the same; mining coal, ores and other minerals, or manufacturing the same in whole or in part, or both, and carrying on business usually connected with the main objects of the corporation aforesaid; and, when organized, shall be a body corporate, having all the privileges, immunities and power conferred upon manufacturing companies by said act, and shall be governed in all respects by the provisions of said act, and the acts supplementary and amendatory thereto.

Repeal.

SEC. 2. That the first section of the act hereby amended, as amended by the act of February 14, 1861, be and the same is hereby repealed.

SEC. 3. This act shall be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed May 6, 1869.

AN ACT

To provide for the sale of Real Estate donated, devised or bequeathed to religious uses, in certain cases.

Courts to sell
devised prop-
erty when
abandoned.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That when any real estate shall have been or may hereafter be donated or bequeathed to, or purchased by or otherwise entrusted to any person or persons, trustee or trustees, for any public religious use, but not to or for the use of any specific or particular religious society or denomination, or when the same has been or may be to a particular religious society or denomination, and shall have been abandoned for such use, it shall be lawful for the court of common pleas of the county in which the same is located, upon good cause shown, upon the petition of any citizen or citizens of the vicinity, to make an order for the sale of such property, whether the same shall have been built upon or otherwise improved or not, and may order such disposition of the proceeds of such sale to such religious or other public use as shall be just, proper and equitable; and the purchaser

or purchasers thereof shall be invested with as full and complete title to said property as the character of the original grant for such religious use will allow.

SEC. 2. That when any petition shall be filed as provided for in the preceding section, all persons who may have a vested, contingent or reversionary interest in such real estate, and the trustees or other temporal officers of any religious society then using said real estate, shall be made parties to said petition; and be notified of the filing and pendency thereof, in the same manner as is or may be provided in case of partition of real estate; Provided, that the provisions of this act shall not authorize the sale or transfer of burial grounds or cemetery; and provided also, that said court shall have power to make such order as to costs as shall be deemed just and proper.

Interested
persons to be
made parties
&c.

Provisions to
cemeteries,
&c

SEC. 3. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed May 6, 1869.

AN ACT

To amend an act entitled an act to authorize the consolidation of railroad companies in this state with railroad companies of states adjoining, in certain cases, and to authorize railroad companies in this state to extend their roads into adjoining states, passed April 10, 1856, (S. & C., 327,) to repeal sections twenty-one, twenty-two and twenty-three of the act entitled an act to provide for the creation and regulation of incorporated companies in the state of Ohio, passed May 1, 1852, (S. & C. 271,) and to authorize the consolidation of railroad companies in this state.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the first section of the act entitled an act to authorize the consolidation of railroad companies in this state with railroad companies of states adjoining, in certain cases, and to authorize railroad companies in this state to extend their roads into adjoining states, passed April 10, 1856, be amended so as to read as follows:

Section 1. That whenever the lines of railroad of any railroad companies in this state, or any portion of such lines, have been or may be constructed so as to admit the passage of burthen or passenger cars over any two or more of such roads continuously, without break or interruption, such companies are hereby authorized to consolidate themselves into a single corporation; and that it shall be lawful for any railroad company in this state, organized under the general or

When rail-
roads may
consolidate.

any special law, or which may hereafter be organized in this state, and whose line of road shall be made or in progress of construction to the boundary line of the state, or to any point either in or out of this state, to consolidate its capital stock with the capital stock of any railroad in an adjoining state, the line of whose road has been made or is in process of construction to the same point, and where the several roads so unite as to form a continuous line for the passage of cars; Provided, that roads running to the bank of any river which is not bridged, shall be held to be continuous under this act.

Repeal.

SEC. 2. That the original first section of said act, named in the first section of this act, and sections twenty-one, twenty-two and twenty-three of the act to provide for the creation and regulation of incorporated companies in the state of Ohio, passed May 1, 1852, be and the same is hereby repealed.

SEC. 3. This act shall take effect on its passage.

F. W. THORNHILL,

Speaker of the House of Representatives.

J. C. LEE.

President of the Senate.

Passed May 6, 1869.

AN ACT

To provide for the erection of an Institution for the education of the Blind.

Trustees to
erect a building.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the trustees of the institution for the education of the blind, proceed immediately to erect a building on the grounds of the present institution, in the city of Columbus, for the care, support and education of the blind, under the provisions of the act entitled "an act prescribing the duties of directors, trustees, commissioners, or other officer, or officers, to whom is confided the duty of devising and superintending the erection, alteration, addition to, or improvement of any state institution, asylum, or other improvement," passed April 3, 1868. Said building shall be of sufficient capacity to accommodate at least three hundred pupils and the necessary officers and employes of the institution, and be constructed at a cost not exceeding two hundred and seventy-five thousand dollars.

Capacity and
cost.

SEC. 2. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,

Speaker of the House of Representatives.

J. C. LEE,

President of the Senate.

Passed May 6, 1869.

AN ACT

To authorize city councils of cities of the first class having a population of over one hundred and fifty thousand inhabitants, to issue bonds for general Sewerage purposes.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, that the city council of any city of the first class having a population of over one hundred and fifty thousand inhabitants, wherein a general sewerage system has been partially or wholly devised or adopted, are hereby authorized to issue the bonds of such city in any sum, not to exceed one hundred and fifty thousand dollars, for the extension and completion of such sewerage system, bearing a rate of interest not to exceed seven and three tenths per cent. per annum, at such dates and for such length of time as they may deem expedient, the same to be sold at not less than par, and the proceeds thereof to be applied exclusively to the above named purpose.

City council
may issue
bonds, &c.

SEC. 2. Whenever any of the bonds herein provided for shall be for sale, not less than ten days' previous notice thereof shall be advertised in such city; said advertisement to be published daily until the day of sale, the same to specify that sealed bids will be received at a place and until a day and hour designated. The bids shall then be opened and read in the hearing of bidders present, and the bonds shall be sold to the highest bidder, the city reserving the right to reject all bids.

Sale of bonds
to be advertised,
&c.

SEC. 3. This act shall be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed May 6, 1869.

AN ACT

To amend section five of an act entitled "an act to provide for the uniform government and better regulation of the Lunatic Asylums of the State, and the care of Idiots and the Insane," (Swan & Critchfield, p. 841.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section five of the above recited act be so amended as to read as follows:

Section 5. The boards of trustees shall appoint a medical superintendent for each of the asylums, and on the nomination of said superintendent a steward and matron, and such assistants.

Trustees to
appoint certain
officers,
&c.

ant physicians as may be necessary, who shall be styled the resident officers of the institutions; said trustees shall fix all salaries not otherwise determined by law. They shall also in connection with the superintendent prescribe rules, regulations and by-laws for the government of their respective institutions; provided, that the number of said assistant physicians shall not exceed two in each asylum.

Repeal.

SEC. 2. That said original section five, be and the same is hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

A. T. WALLING,
Speaker pro tem. of the House of Representatives,
 J. C. LEE,
President of the Senate.

Passed May 6, 1869.

AN ACT

To authorize cities of the first class having a population of over 150,000 inhabitants, to issue bonds for the extension and completion of Avenues established therein.

City council
 may issue
 bonds in cer-
 tain cases.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the city council of any city of the first class having a population of one hundred and fifty thousand inhabitants, wherein a public avenue of not less than one hundred feet in width is now projected, to be known and designated as "Gilbert avenue," is hereby authorized to issue the bonds of said city in any sum not exceeding one hundred and fifty thousand dollars, for improving such avenue, bearing a rate of interest not to exceed seven and three-tenths per cent. per annum at such dates and for such length of time as they deem expedient, the same to be sold at not less than par, and the proceeds thereof to be applied exclusively to the improvement of such "Gilbert avenue," commencing at the western terminus of said avenue.

Sale of bonds
 to be adver-
 tised, &c.

SEC. 2. Whenever any of the bonds herein provided for shall be for sale, not less than ten days previous notice shall be advertised in such city, said advertisement to be published daily until day of sale, the same to specify that sealed bids will be received at a place and until a day and hour designated. The bids shall then be opened and read in the presence of the bidders present, and the bonds shall be sold to the highest bidder, the city however reserving the right to reject all bids.

SEC. 3. This act shall be in force from and after its passage.

A. T. WALLING,
Speaker pro tem. of the House of Representatives.
 J. C. LEE,
President of the Senate.

Passed May 6, 1869.

AN ACT

To provide for the keeping in repair of Gravel or Macadamized Roads heretofore or hereafter constructed under the laws of the state of Ohio, and to authorize county commissioners to convert such of said roads as charge and receive toll, into free roads.

SECTION. 1. *Be it enacted by the General Assembly of the State of Ohio*, That each township within this state in which any free road or roads are located as provided for in this act, is hereby made a road district for the care and maintenance of all improved public roads, abandoned toll or free turnpike roads, or purchased toll roads, that are made free within their respective boundaries.

Certain townships made road districts.

SEC. 2. When any public road shall have been improved and accepted as an improved road by the commissioners of any county in this state, under an act passed March 29th, 1867, to authorize county commissioners to construct roads on a petition of resident land owners along and adjacent to the line of said roads, or when any abandoned toll or free turnpike road shall have been received and appropriated by the county commissioners and declared public roads, or when any toll road shall be made free under the provisions of this act, the auditor shall immediately give notice of such fact, to the township clerk wherein any such road, or part thereof, may be located, describing it by name and location; or when any transaction, as provided for in this section, shall have been accomplished before the passage of this act, then on the going into effect of this act such notice shall be given, except where any free road shall be made a toll road, as provided for in the sixteenth section of this act.

Auditor must give notice in certain cases.

SEC. 3. The township clerk, upon receiving notice from the auditor, shall immediately notify the township trustees of such fact, who shall at their next annual meeting on the first Monday of March, order the election of one improved road superintendent, to be elected at the annual spring election for township officers, to serve for one year, and shall order such election annually thereafter; provided, that the trustees may on the taking effect of this act, appoint said superintendent to serve until his successor is elected and qualified, in 1870.

Duty of township clerk.

Election of superintendent.

SEC. 4. Each person so elected or appointed, shall, before entering upon the duties of his office, take an oath or affirmation to faithfully discharge the duties thereof, and shall give bond to the state of Ohio in such sum and secured as the trustees shall require, every such bond to be carefully filed by the township clerk.

Oath of superintendent.

SEC. 5. When properly qualified, the improved road superintendent shall have full control of all such roads as are herein provided for, within his township, and shall keep them in good repair, smooth, and in good condition for all kinds of public travel, and for this purpose shall have all the powers and privileges of road supervisors, as to drainage and for the re-

Duties of superintendent.

moving and procuring of material for repairs; also to make contracts for repairs from time to time, either for day or job work, certifying the same with amounts due under any such contracts, to the township clerk, who, on the order of the township trustees, shall issue an order to the township treasurer for the amount so certified, or such part thereof as shall be allowed by the township trustees in favor of the party to whom such certificate was issued.

**Duties of
township
trustees.**

SEC. 6. The township trustees shall provide means for keeping in repair all such improved roads within their township, and for that purpose shall set off persons and districts, who shall perform their two days' labor as required by law, and also labor in commutation of taxes, the same to be worked out under the direction of the improved road superintendent, who is hereby authorized to give receipts therefor as other road supervisors; and they shall set off from the common road fund of their township, such amount as to them shall seem equitable, to be an improved road fund especially applicable to the care and improvement of such roads, and may also give the improved road superintendent the use of any plows, scrapers or other implements, owned by the township for road purposes; provided, that the trustees shall levy and expend the full amount of taxes provided for in an act relating to roads and highways, passed March 9, 1868, before they shall expend any of the county funds provided for in section eleven of this act.

**Vacancy,
how filled.**

SEC. 7. Should a vacancy occur in the office of improved road superintendent, by death, resignation or otherwise, the trustees of the township wherein such vacancy occurs, shall appoint some suitable person to fill such vacancy; the person so appointed shall before entering upon the duties of his office qualify himself, and shall be under the same restrictions and penalties as though he had been duly elected.

**Penalty for
neglect of
duty, &c.**

SEC. 8. That any improved road superintendent who shall neglect or refuse to perform the duties enjoined on him by this act, or who shall under any pretense whatever, give or sign any receipt or certificate for labor or work performed, money paid or material furnished, unless the labor shall have been performed, money paid or material furnished before the giving or signing such receipt or certificate, shall forfeit for every such offense not less than five dollars nor more fifty dollars, to be recovered by an action before any justice of the peace within the township where such improved road superintendent may reside; and it is hereby made the duty of the trustees of the township to prosecute all offenses against the provisions of this act; provided, that if any such supervisor shall deem himself aggrieved by the judgment of such justice of the peace, he may, on giving sufficient surety to said justice for the payment of costs, appeal to the court of common pleas, who shall make such order therein as to them may appear just and reasonable.

**Superinten-
dent's report.**

SEC. 9. Each improved road superintendent, shall, at the annual township settlement, make to the trustees of his township a detailed statement of his official transactions, including the number of miles of improved roads within the

township, the number of miles in each road separate, the aggregate expenses incurred in repairs, the expense of each road separate, and also the number and names of persons having performed their two days' labor under his direction, and the names and number of persons having received certificates of having performed labor in commutation of road tax and the amount of each certificate; also on what road such labor was performed, as well as the condition of each road on settlement day.

SEC. 10. That each improved road superintendent shall receive for his services two dollars per diem for the time actually employed in the care of such roads.

Superintendent's compensation.

SEC. 11. If the tax levied by the township trustees, and the road labor provided for in an act relating to roads and highways, passed March 9, 1868, when applied to such improved roads as are herein provided for in compliance with the provisions of this act, is found by the county commissioners to be insufficient to keep such roads in good repair, then it shall be the duty of the county commissioners to determine and levy such an additional per centum of extra road tax to be levied upon the taxable property of the county, not exceeding two mills on the dollar in any one year; and the same shall be collected as other taxes, and when collected shall be paid out by the county treasurer to the township treasurers in such proportions, upon the order of the county commissioners, as they may determine to be just and equitable between the several townships in which said roads are located, as are herein provided for, and shall be expended upon such improved road in accordance with the provisions of this act.

When additional road tax may be levied.

SEC. 12. That the county commissioners shall build and keep in repair all bridges and culverts upon the roads provided for in this act.

Bridges and culverts.

SEC. 13. That so much of an act entitled "an act relating to roads and highways," passed March 9, 1868, except sections twelve (12), thirteen (13), fourteen (14), sixteen (16), seventeen (17), twenty-two (22), thirty-one (31), and thirty-two (32), as places the roads and highways of the townships and counties of this state in the charge and under the control of township trustees and road supervisors, and defines their duties, shall not apply to such roads as are herein provided for; but that the township trustees and road supervisors of such townships and districts in which there are roads located that have been constructed and improved by graveling, macadamizing or planking, are hereby relieved and prohibited from exercising any other control over such roads, except such powers as are conferred in the sections of the "act relating to roads and highways" as are herein excepted.

Exceptions of application, &c.

SEC. 14. That at any time after the passage of this act, it shall be lawful for the duly constituted officers, after first obtaining the written consent of the owners of a majority of the stock of any toll road, or incorporated turnpike company in this state, to make an offer or proposition in writing, binding upon such road or company, to the county commissioners of the county in which the same or any part thereof may be located, of what amount in the bonds of the county, drawing

Proposals for sale of road lying in the state

seven per cent. per annum, and payable as soon as taxes can be levied and collected for their redemption, they will take for their road, or the part thereof located in such county; provided, that when any such proposition is made as aforesaid, it shall be binding upon the company for the space of six months succeeding the date thereof, and may be accepted by the commissioners at any time before the expiration of six months from the date thereof; provided, also, that the commissioners of any free turnpike road, which have been or may hereafter be appointed, may, after receiving the written consent of a majority of the resident freeholders within the bounds of said road, propose to the county commissioners, in writing, to abandon their organization as a corporation, and if accepted, the said road shall thereafter be kept in repair the same as other roads provided for in this act.

Land owners
may petition
for purchase.

SEC. 15. After the filing of said proposition with the commissioners, it shall be lawful for the resident land owners along and adjacent to the line of such toll road, or incorporated turnpike company, to petition the county commissioners to purchase said road at the price contained in the said proposition; that the bonds of the county be issued to said company according to its proposition, and that a sum sufficient to pay the same with the interest, may be assessed upon the lots and lands which would be benefited by the conversion of said toll road into a free road, lying within two miles thereof; and in ascertaining what lots and lands are benefited, and to what extent each piece should be assessed for said purchase, and as to whether a majority of the owners thereof have petitioned therefor, the county commissioners, auditor and treasurer, shall have the same powers and authority and be governed in the assessment and collection of taxes to pay for the road so purchased, and in all other respects, in so far as the same may be applicable, by the act in relation to the construction of roads on petition, referred to in the tenth section of this act, and by the act to which the act referred to is amendatory. After the purchase of any such toll road by the commissioners as aforesaid, the same shall immediately thereupon become a free road, thereafter to be kept in repair under the provisions of this act the same as though it had never been a toll road.

Joint stock
company
may be or-
ganized.

SEC. 16. Whenever a majority of the landholders whose lands have been or hereafter may be assessed to construct a road by virtue of proceedings under and by virtue of an act of the general assembly of the state of Ohio, entitled "an act to authorize the county commissioners to construct roads on petition of a majority of the resident land owners along and adjacent to the line of said road, and to repeal an act therein named," passed March 29, 1867, and the acts supplementary and amendatory thereto, shall desire to incorporate themselves into a joint stock turnpike company, that they may proceed in the same manner as is required by the act entitled "an act to provide for the creation and regulation of incorporated companies in the state of Ohio," passed May 1, 1852. (S. & C., page 271;) provided, however, that in their certifi-

cate of incorporation they shall also state that said road has already been constructed under and by virtue of said act hereinbefore mentioned, passed March 29, 1866, [1867] and shall also state the amount of capital stock of said company, which shall be as near as the same can be arrived at, the amount expended in the construction of said road; and there shall also be annexed to said certificate of incorporation, a petition asking for the incorporation of the persons named in the certificate of incorporation for the purposes therein named, which petition must be signed by a majority of the landholders whose lands have been taxed for the making of said improvement, accompanied by a certificate of the auditor of the county in which said road is located, to the effect that the said petition contains the signatures of a majority of the landholders whose lands have been so taxed.

SEC. 17. That no stock books shall be opened and no subscriptions received to the stock of said company; that the auditor of the county in which any road is located shall, on demand, furnish to the corporators a certified list of the landholders whose lands have been taxed for the construction or improvement of said road; and at the first election of directors and officers of said company, each person whose lands have been so assessed shall be entitled to one vote, and no more.

No stock books to be opened by such company.

SEC. 18. After the organization of said corporation, the president and secretary of the company shall issue certificates of stock to each landholder for the number of shares of stock of the amount of the sum which may be designated by the directors, and fractions of a share as shall amount to the sum which his lands have been assessed, and he has already paid for making said improvement; and they shall also from time to time, after the assessments on each landholder each year are paid, issue like certificates for the amount of the assessments so paid; provided, however, that no person shall be a stockholder in said company who has not signed the original certificate of incorporation, the petition annexed thereto, or voted at the first election of directors and officers of said corporation, unless he shall within one year after its organization, signify to the directors of said company his desire to become a stockholder therein, and each landholder so as aforesaid assessed becoming a stockholder, shall be considered such stockholder to the whole amount which his lands are assessed for the construction of said road.

Certificates of stock to be issued.

SEC. 19. That said company so incorporated shall have the same powers and be subject to the same liabilities as other turnpike companies incorporated under the laws of the state now or hereafter enacted.

Powers and liabilities.

SEC. 20. The officers and other persons performing service under this act shall be allowed the same fees as they are allowed for like services in other cases, and may be paid out of the fund created by this act, or out of any funds in the county treasury not otherwise appropriated.

Fees of officers.

SEC. 21. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
 J. C. LEE,
President of the Senate.

Passed May 7, 1869.

AN ACT

For the regulation of Bridge Companies.

Elections,
 who entitled
 to vote, &c.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That it shall be lawful for all companies which heretofore have been or hereafter may be incorporated and organized under any law of the state of Ohio for the purpose of constructing a bridge across the Ohio river, to prescribe the time at which their annual elections and meetings of stockholders shall be held; and at all elections, holders of paid-up stock shall be entitled to vote either in person or by proxy, one vote for each share held by them, and the authority of the proxy need not be recorded.

Ferries.

SEC. 2. That such companies may purchase, hold, receive grants for and run ferries within one-half mile of such bridges across said river, and do and perform all the necessary acts in relation thereto, but the rates of ferryage shall be subject to the control of the authorities as in case of ferries owned and run by individuals.

SEC. 3. This act shall take effect from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
 J. C. LEE,
President of the Senate.

Passed May 7, 1869.

AN ACT

Relating to the inspection of Steam-boilers, and for the better protection of life and property against accidents by Steam-boiler explosions.

Appoint-
 ment of in-
 spector-in-
 chief of
 steam-boil-
 ers, and dep-
 uties.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the governor of the state of Ohio shall, within thirty days after the passage of this act, appoint an inspector-in-chief, and the probate judge of the most populous county in each of the congressional districts in this state shall, within the same time, appoint one suitable person in

such congressional district as deputy inspector; and all vacancies hereafter occurring shall be filled in like manner; said deputy shall be a practical engineer, and whose duty it shall be to inspect steam-boilers in such congressional district, as hereinafter specified and directed; such inspector-in-chief and deputy inspectors shall hold their office for two years, unless sooner removed by the appointing power for cause.

SEC. 2. That every owner or owners of any steam-boiler in use situated within this state, shall, on or before the first day of August next, and annually thereafter, as the inspector-in-chief may prescribe, report to the deputy inspector of the district in which the same may be, the location of such boiler; and thereupon and within sixty days at farthest, the said deputy inspector shall proceed to inspect such steam-boiler in such manner as shall be designated by the rules and regulations of the inspector-in-chief, and all apparatus and appliances connected therewith; and that such boiler shall have attached to it a safety valve and a low water indicator; said safety valve to fulfill all the conditions now adopted by the board of supervising inspectors of the United States in reference to such valves.

Owners of
steam boilers
to report
to inspectors.

SEC. 3. That said deputy inspector shall limit the pressure of steam upon every boiler, and shall certify such inspection and such limit of pressure to the owner, or one of the owners of such boiler, and also to the engineer in charge of the same; in limiting the amount of pressure whenever the boiler under test will with safety bear the same, the limit desired by the owner of the boiler shall be the one certified; and said deputy inspector shall determine the surface level of the solid water in every boiler, and designate the point below which said water shall not be allowed to fall, and shall require the low water indicator to be so adjusted to such point that immediate alarm will be given of any depletion of the water in such boiler.

Duty of deputy inspectors.

SEC. 4. That it shall be the duty of the said deputy inspector, on receiving such report as aforesaid from the owners of any steam-boiler, to notify such owner or owners of the time when he will inspect the same, and it shall be the duty of such owner or owners to have such boiler ready for inspection at the time specified in such notice. In case the owner or owners of any such boiler shall fail to report the location of the same as aforesaid, he shall be liable to a penalty of twenty-five dollars; and in case the owner or owners of any such boiler shall fail to have the same ready for inspection as aforesaid, he or they shall be liable to pay the fees and expenses of the said inspection incurred in the inspection of any such boiler, and five dollars in addition thereto; such fees, expenses and penalty in such case may be sued for and recovered by and in the name of the said inspector-in-chief, for the benefit of the county in which such boiler may be situated; and in case said deputy inspector shall fail to make the inspection at the time specified, he shall pay to the owner of such boiler all damages sustained by such failure.

The same.

SEC. 5. That each deputy inspector shall make in proper form, a statement of every inspection of steam-boilers made

Same.

by him, and by any board of examiners as hereinafter provided, and the amount of steam or pressure allowed in each case and the level of the water, and report the same within thirty days after any such inspection to the inspector-in-chief. In cases where any steam boiler, or the apparatus or appliances connected therewith shall be deemed by such deputy inspector, upon inspection as aforesaid, to be insecure or dangerous, the said deputy inspector shall, as soon as convenient, confer with two practical engineers, one of whom may be chosen by the owner of such boiler, who, with such deputy inspector, shall constitute a board of examiners, whose duty it shall be forthwith to further examine such boiler or boilers, and any two of such board shall prescribe and certify to the owner thereof such changes and alterations as will, in their judgment, render such boiler, apparatus and appliances secure; and until such changes and alterations are made and such appliances attached, it shall not be lawful for the owner of such boiler to use or permit the same to be used under a penalty of fifty dollars for each day's use; said penalty to be sued for, recovered and applied in the manner prescribed by the fourth section of this act. The members of said board of examiners shall be entitled to receive two dollars for each day or part of a day, during which they are actually engaged in making any examination aforesaid.

Fees for inspection.

SEC. 6. That each deputy inspector shall receive for the inspection of a boiler, according to the provisions of this act, the sum of four dollars for every single boiler, and when a battery of boilers, he shall receive three dollars for the first boiler and two dollars for each additional boiler; provided, that when the gross sum for inspection as herein specified shall amount to more than two thousand dollars a year, in any district, then the deputy inspector of such district shall receive that sum per year, and no more, and no extra compensation shall in any case be allowed; and the said sum of two thousand dollars shall be apportioned between the counties forming the district, according to the number of boilers in such counties respectively, as hereinafter provided for; and such deputy inspector shall furnish the inspector-in-chief, and the auditor of each county in his district, a certified list of the number of boilers in such county, with the names and residence of the owner or owners thereof, and said auditor shall certify the same to the county treasurer; and each owner or owners of boilers shall, on or before the twentieth day of June of each year, pay into the county treasury the sum of four dollars for each boiler owned by them; and if such owner or owners fail to pay said sum at the specified time, the county auditor, upon notice thereof by the county treasurer, shall place the same upon the tax duplicate against said delinquent, and charge the county treasurer therewith, and the county treasurer shall collect such sums in the manner prescribed by law for the collection of taxes upon personal property; and the treasurer shall keep and return a separate account of all moneys so collected and paid, in his annual settlements; and the sums as compensation for the deputy inspectors as herein provided, and the compensation of said board of examiners,

Report to auditor, &c.

convened as hereinbefore provided, shall be a charge upon the county in which the boiler inspected or examined shall be situated, and shall be audited and paid by the county in the same manner that other county salaries and expenses are paid.

SEC. 7. That any owner or part owner of any boiler who shall consider himself aggrieved by the decision of said inspector or board of examiners under the provisions of this act, may, within thirty days after the result of such inspection or examination has been certified to him as aforesaid, appeal from said decision to the inspector-in-chief, who may in his discretion, order a further examination and inspection, the expense thereof to be borne by the owner or owners of such boiler, and the decision of said inspector-in-chief, or of said board upon a re-examination, shall be final.

Appeal from acts of inspectors.

SEC. 8. That it shall be the duty of the inspector-in-chief to prescribe rules and regulations to govern said deputy inspectors in the performance of their duties; to furnish each deputy inspector with the forms or blank certificates of inspection, together with the necessary apparatus and appliances for testing and examining boilers; to keep a correct record of all inspections of steam boilers, and of the amount of steam or pressure allowed in each case reported to him by any deputy inspector, and the amount of solid water required to be kept in each boiler; to make the apportionment between the counties required by section 6 of this act, and to notify the county auditor of the same, which record shall be the property of the state, and shall be filed in the office of the secretary of the state and reported to the governor of the state annually. The said inspector-in-chief shall receive annually from the state a salary of two thousand dollars, which shall be paid by the treasurer of the state in the same manner as other salaries are paid; the expense of furnishing apparatus and appliances for the purpose of inspecting steam boilers as hereinbefore prescribed shall be borne by the state, and paid in the same manner that other state charges and expenses are paid; no bill for any expense or charges shall be paid, however, unless the same be certified by the inspector-in-chief to be correct.

Duties of inspector-in-chief.

His salary.

SEC. 9. That the owner or owners of every such steam boiler shall, under a penalty of two hundred dollars, to be sued for, recovered and applied in the manner prescribed in the fourth section of this act, cause to be attached thereto a low water indicator, with an alarm so constructed, and forming part of said indicator, that it will give an alarm at low water, and at a high pressure of steam.

Indicator to be attached to boilers.

SEC. 10. That it shall be the duty of said deputy inspectors, on the inspection of any boiler, to deliver to the owner or owners thereof a certificate (a duplicate of which shall be retained on file) of inspection, stating the condition of the boiler; and if he deliver or cause to be delivered to the owner or owners of any boiler so inspected a certificate of inspection, without having first subjected the same to all the mechanical tests hereinbefore provided, he shall be liable to a penalty of five hundred dollars for each such act, or, if after

Certificate of inspection.

Penalty for false certificate.

such inspection he shall render a false report, either to the owner or the inspector-in-chief, he shall be liable to a penalty of five hundred dollars for each offense, to be sued for, recovered and applied in the manner prescribed in the fourth section of this act; provided, that the said certificate of inspection shall be placed and kept in some conspicuous place on the premises where the boiler therein referred to is used.

Exceptions
of applica-
tion.

SEC. 11. That this act shall not apply to boilers upon railroad locomotives, nor to boilers used for heating private dwellings, nor engines attached to portable saw mills, threshing machines, oil or other wells.

SEC. 12. This act to take effect upon its passage.

F. W. THORNHILL,

Speaker of the House of Representatives.

J. C. LEE,

President of the Senate.

Passed May 7, 1869.

AN ACT

Supplementary to "an act supplementary to an act to provide for and regulate Street Railroad Companies," passed March 27, 1866. (S. & C., 137, and S. C., 280, 281.

Extension of
track of
street rail-
roads.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That it shall be lawful for the council of any city or incorporated village to grant permission by ordinance to any person or company, owning or having the right to construct any street railroad, to extend their track, subject to the provisions of sections four and five of said act passed March 27, 1866, on any street or streets where the said council shall deem such extension beneficial to the public. And when any such extension shall be made, the charge for carrying passengers on any street railroad so extended, and its connections made with any other road or roads, by consolidation under existing laws, shall not be increased by reason of such extension or consolidation; said sum shall include the government tax.

SEC. 2. This act shall take effect from and after its passage.

F. W. THORNHILL,

Speaker of the House of Representatives.

J. C. LEE,

President of the Senate.

Passed May 7, 1869.

AN ACT

To amend section one of an act entitled "an act to repeal an act entitled 'an act supplementary to an act entitled an act authorizing the appointment of metropolitan police commissioners in cities of the first class, with a population of less than one hundred thousand inhabitants at the last federal census,'" passed April 5, 1866, passed March 29, 1867 (O. L., p. 80), and to provide a police for cities of the second class, passed April 16, 1868.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the first and second sections of said act, passed April 16, 1868, be and the same is hereby amended so as read as follows:

Section 1. That the city council of cities of the second class, having a population of 12,000 and upwards at the last federal census, shall provide by ordinance for the maintaining a city watch or police, provide for its proper organization, and prescribe its duties and define its powers, in such manner as will most effectually preserve the peace of the city, secure the inhabitants thereof from personal violence, and their property from fire and unlawful depredations, the protection of visitors and public travel to and through such cities. The city marshal thereof shall, in addition to the duties that are or may be required of him as city marshal, perform the duties of chief of police, and shall have power and is hereby required to select and appoint one person who shall act as captain, and one person who shall act as first lieutenant of police, and one person who shall act as second lieutenant of police, who, together with the city marshal, shall execute all such duties as may be required by the laws and ordinances of such city council, and shall be required to give bond for the faithful performance of their duty, in the same manner and not exceeding the same amount as is required by ordinance of the city of the city marshal, and such officers so appointed shall receive such compensation for their services as is provided for by the ordinances of such cities.

Police for
cities of the
second class.

Duty of city
marshal.

SEC. 2. That section two of the above recited act be and the same is hereby amended so as to read as follows:

Section 2. On the second Monday in May, 1869, and annually thereafter, it shall be the duty of the mayor and marshal of cities of the second class, having a population of 12,000 and upwards at the last federal census, to appoint regular policemen, who shall have been citizens of such city for at least six months prior to such appointment, not exceeding one for every one thousand inhabitants at the last federal census, with such additional number in proportion to the increase of population as the city council may deem expedient and necessary; and that all vacancies that may occur in the police force, either by death, resignation, or otherwise,

Appoint-
ment of
policemen

shall be filled by appointment as hereinfore provided for the appointment of regular policemen; provided, that when any charges are preferred against any of the policemen or officers of police for misconduct, incompetency or neglect of duty in office, such charges shall be made in writing to the city council of such city, or to the police committee appointed by such council, who shall have power to examine witnesses under oath as to the truth and justice of such charge or charges, and if such charge or charges shall, in their opinion, be true, such council shall have power to discharge such policeman or officer, against whom such charge or charges shall have been preferred.

Repeal, and
proviso.

SEC. 3. This act shall take effect and be in force from and after its passage, and the original sections one and two are hereby repealed; provided, that the regular policemen, appointed under the act to which this amendatory, shall remain in office until the appointments are made as provided for in this act.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed May 6, 1869.

AN ACT

To amend section two of "An act to regulate the election, contest of election, and the resignation of Justices of the Peace," passed March 11, 1853. [S. & C., vol. 1, p. 763.]

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section two of the act entitled "an act to regulate the election, contest the election, and the resignation of justices of the peace," passed March 11, 1853, be amended so as to read as follows:

Notice of
election to
fill vacancy.

Section 2. That whenever a vacancy is about to happen, or shall actually happen, in the office of justice of the peace in any township in this state, either by death, removal, absence at any one time for the space of six months, resignation, refusal to serve or otherwise, the trustees having notice thereof, shall give notice to the electors of such township to fill such vacancy, by setting up advertisements in three public places in such township, specifying the number of justices to be elected, and the time of such election; which notice shall be given not less than fifteen nor more than twenty days previous to holding such election, which shall be held at such place as said trustees (or clerk, as the case may be) shall direct; and the clerk of court of common pleas, in certifying to the secretary of state the election of any justice of the peace to fill any vacancy as aforesaid, shall specify in his certificate the name of the justice of the peace whose place is

Duty of clerk
of common
pleas.

supplied by the person whose election is certified to, and also the date when such vacancy occurred; and to enable the clerk of court to comply with so much of this section as relates to his duties, it is hereby made the duty of the trustees to notify said clerk of any vacancy as aforesaid, and the date when it occurred. And in case the election of an additional justice of the peace in any township is authorized by the proper authority, the clerk of court, in certifying his election to the secretary of state, shall state in his certificate that he is such additional justice of the peace so authorized and elected.

SEC. 2. That said original section two is hereby repealed, and this act shall take effect on its passage. Repeal.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed May 7, 1869.

AN ACT

To authorize city council of cities of the first class having a population of over one hundred and fifty thousand inhabitants, to issue bonds for Water Works.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the city council of any city of the first class, having a population of over one hundred and fifty thousand inhabitants, and wherein water works have been constructed, for the purpose of completing reservoirs now being constructed, are hereby authorized, upon the application of such trustees, to issue the bonds of the city for any sum not exceeding one hundred and fifty thousand dollars, bearing a rate of interest not to exceed seven and three-tenths per cent. per annum, at such dates and for such lengths of time as they may deem expedient, the same to be sold at not less than par, their sale to be under the direction of said trustees, and the proceeds thereof to be applied exclusively to the above named purposes.

Authority to
issue bonds
for water
works.

SEC. 2. Whenever any of the bonds herein provided for shall be for sale, not less than ten days previous notice of said sale shall be advertised in Cincinnati, said advertisement to be published daily until the day of sale; the advertisements shall specify that sealed bids will be received at a place and until a day and hour designated; the bids shall then be opened and read, in the presence of the bidders present, and the bonds shall be sold to the highest bidders, the city, however, reserving the right to reject all bids.

Notice of sale
to be given.

SEC. 3. This act shall take effect on and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed May 7, 1869.

AN ACT

Making appropriations for the furnishing and support of the Reform and Industrial School for Girls for the year A. D. 1869, and the first quarter of the year A. D. 1870.

Appropriation.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That there be and hereby is appropriated out of the general revenue fund the sum of fifteen thousand dollars for the purpose of furnishing the reform and industrial school for girls, and for sustaining the inmates thereof during the year 1869, and the first quarter of the year 1870, to be expended by the trustees thereof under the provisions of the law organizing that school.

SEC. 2. This act shall take effect on its passage.

F. W. THORNHILL,

Speaker of the House of Representatives.

J. C. LEE,

President of the Senate.

Passed May 7, 1869.

AN ACT

Supplementary to the code of civil procedure, and to provide for the correction of clerical errors in pleadings.

Action for correction, etc.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That whenever a recovery may have heretofore been had, or may hereafter be had, in default, in any civil action or proceeding for the amount claimed in the petition, and the amount so claimed and recovered shall, by reason of mistake in the pleader, be less than the true amount of the claim existing in favor of the plaintiff or plaintiffs at the time of the commencement of such action, it shall be lawful for the said plaintiff or plaintiffs to bring an action to correct such mistake, and have judgment or decree for the unpaid balance of the true amount of such claim, without costs.

SEC. 2. This act shall take effect on its passage.

F. W. THORNHILL,

Speaker of the House of Representatives.

J. C. LEE,

President of the Senate.

Passed May 7, 1869.

MUNICIPAL CODE.

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AN ACT

To provide for the Organization and Government of Municipal Corporations.

Be it enacted by the General Assembly of the State of Ohio, as follows:

PRELIMINARY PROVISION.

SECTION 1. All municipal corporations in this state now existing, or which may hereafter be created, shall be governed by the provisions of this act, and the territorial limits and wards of existing municipal corporations shall remain as they now are until changed in the manner herein provided.

Application to all municipal corporations.

CHAPTER I.

CLASSIFICATION OF MUNICIPAL CORPORATIONS.

SECTION

2. Classification.
3. Cities of first class.
4. Cities of second class.
5. Villages.

SECTION

6. Villages for special purposes.
7. Population requisite for cities and villages.
8. Bodies politic and corporate.

SEC. 2. Municipal corporations shall be divided into cities of the first class, cities of the second class, incorporated villages, and incorporated villages for special purposes.

Classification.

SEC. 3. All existing municipal corporations, organized as cities of the first class, shall be deemed cities of the first class.

Cities of the first class.

SEC. 4. All existing municipal corporations, organized as cities of the second class, shall be deemed cities of the second class until advanced to the grade of cities of the first class, in the manner provided in this act.

Cities of the second class.

SEC. 5. All existing municipal corporations, organized as incorporated villages, shall be deemed incorporated villages until advanced to the grade of cities of the second class, in the manner provided in this act.

Villages.

SEC. 6. All existing municipal corporations, organized as special road districts, shall be deemed incorporated villages for special purposes until advanced to the grade of incorporated villages, in the manner provided in this act.

Villages for special purposes.

SEC. 7. No city of the second class shall be advanced to the grade of a city of the first class until it shall have attained a population of twenty thousand. No incorporated village shall be advanced to the grade of a city of second class until it shall have attained a population of five thousand. No incorporated village for special purposes shall be advanced to the grade of an incorporated village until it shall have attained a population of five hundred; and no incorporated village shall hereafter be organized until the inhabitants to be embraced in it exceed in number one thousand.

Population requisite for cities and villages.

Bodies politic
and corporate.

SEC. 8. All municipal corporations now organized and established, including special road districts, and all municipal corporations organized under the provisions of this act, shall be and they are hereby declared to be bodies politic and corporate, under the name and style of the city of—; the incorporated village of—; the village of—, incorporated for special purposes, as the case may be, and as such capable to sue and be sued, to contract and be contracted with, to acquire, hold and possess property, real and personal, and to have a common seal, and to change or alter the same at pleasure, and to exercise such other powers and have such other privileges as are conferred by this act

CHAPTER II.

CREATION OF INCORPORATED VILLAGES — GENERAL AND SPECIAL.

SECTION

9. Organization of incorporated villages.
10. Application therefor.
11. Character of petition.
12. Presentation, &c., of petition.
13. Proceedings on petition.
14. Duty of commissioners.
15. Transcript of proceedings.
16. Duty of Recorder.
17. Transcripts to be certified, &c.
18. Corporation complete.
19. Record thereof.

SECTION

20. Application for injunction.
21. Notification to recorder, &c.
22. Recorder to transmit papers to clerk.
23. Duty of court or judge, &c.
24. First election of officers.
25. Procedure when territory lies in two or more counties.
26. The same.
27. Jurisdiction of officers.
28. Fees of officers.

Organization of
incorporated
villages.

SEC. 9. The inhabitants residing on any territory laid off into town or village lots, a plat of which has been made, acknowledged and recorded, and which territory is not adjoining any city or incorporated village, may be organized into an incorporated village, or an incorporated village for special purposes, in the following manner:

Application
therefor.

SEC. 10. Application for such purpose shall be made by petition, in writing, signed by not less than thirty of the legal voters of this state residing on such territory, addressed to the commissioners of the county in which such territory shall be located.

Character of pe-
tition.

SEC. 11. Such petition shall accurately describe the territory to be embraced in the proposed corporation, and may include adjacent territory not laid off into lots; it shall state the supposed number of inhabitants residing thereon, and the kind of corporation they desire should be established. It shall also contain the name or names of some person or persons authorized to act in behalf of the petitioners, as their agent or agents, in the premises, and the name proposed for such corporation, and it shall be accompanied by an accurate map of the territory therein described.

Presentation,
&c., of petition.

SEC. 12. Such petition shall be presented to the board of commissioners at a regular session thereof, and when so presented, such board shall cause the same to be filed in the office of the county auditor, to be there kept subject to the inspection of any person or persons interested. The commissioners

shall also, at the time of the filing of such petition, determine upon and communicate to the agent or agents of such petitioners, the time and place for the hearing thereof, which time shall be not less than sixty days after the date of such filing. Thereupon the said agent or agents shall immediately cause a notice, containing the substance of said petition, and stating the time and place where the same will be heard, to be published in some newspaper published and of general circulation in the county, for the period of six consecutive weeks, and also a copy of the said notice to be posted up in some conspicuous place within the limits of the proposed corporation not less than six weeks prior to the time fixed for the hearing of said petition.

SEC. 13. Every such hearing shall be public, and may be adjourned from time to time and from place to place, according to the discretion of the commissioners, and any person interested may appear, in person or by attorney, and contest the granting of the prayer of said petition, and affidavits in support of or against the prayer of the petition, which may be prepared and submitted, shall be examined by said commissioners, and they may, in their discretion, permit the agent or agents of the said petitioners to amend said petition or change the same, except that no amendment shall be permitted whereby territory not before embraced shall be added without appointing another time for hearing and requiring new notices to be given as above provided.

Proceedings on
petition.

SEC. 14. If the commissioners, upon the hearing of the petition, shall find that it contains all the matters required and that its statements are true; that the name proposed for such corporation is appropriate; that the limits thereof have been accurately described, and that the same are not unreasonably large or small, and the map or plat thereof is accurately made; that the persons whose names are subscribed thereto are legal voters residing on said territory, and shall be further satisfied that the said notice has been given by the said agent or agents as required, and, if the petition be for an incorporated village, that there is the requisite population for such corporation, or, if the petition be for an incorporated village for special purposes, that at least fifty qualified voters reside on said territory, and if, moreover, it shall be deemed right and proper, in the discretion of said commissioners, that such petition be granted, they shall cause an order to be entered upon their journal, to the effect that the corporation as named and asked for in the petition, may be organized.

Duty of com-
missioners.

SEC. 15. The commissioners shall then cause a complete certified transcript of all their proceedings and orders to be made out, which transcript they or a majority of them shall sign, and cause to be delivered, together with the petition and map accompanying said petition, and all the other papers on file, to the recorder of the county.

Transcript of
proceedings.

SEC. 16. The said recorder shall file the same in his office, and immediately after the expiration of sixty days after such filing, unless enjoined as hereinafter provided, he shall make a record of the said petition, transcript and map, in the proper

Duty of record-
er.

book of records in his office, and preserve in his office the original papers as delivered to him by the commissioners, having certified thereon that the said transcript and map are properly recorded.

Transcripts to be
certified.

SEC. 17. As soon as said record is made, the recorder shall make out and certify, under his official seal, two transcripts thereof, one of which he shall forward to the secretary of state, and the other he shall, on demand, deliver to the agent or agents of said petitioners, with a certificate thereon that the duplicate thereof has been forwarded to the secretary of state as above provided.

Corporation
complete

SEC. 18. So soon as said record shall be made, the inhabitants residing within the limits of the territory described in the petition, shall be deemed and held to be an "incorporated village for special purposes," or "an incorporated village," as the case may be, to be organized and governed under the provisions of this act; and so soon as such corporation shall be organized by the election of officers as hereinafter provided, notice of its existence as such shall be taken in all judicial proceedings in this state.

Record thereof.

SEC. 19. The commissioners shall cause to be entered upon their journal a full and complete record of all their orders and proceedings in relation to the incorporation of villages as herein provided.

Application for
injunction.

SEC. 20. Any person interested may, at any time within the period of sixty days from the day of filing the said transcript of the commissioners and papers with the recorder as before provided, make application, by petition, to the court of common pleas of the county, or to the judge thereof if in vacation, setting forth in such petition the errors complained of, or the inaccuracy of said boundaries, or both, and praying an injunction restraining said recorder from making the said record and certifying the transcripts above required.

Notification to
recorder, &c.

SEC. 21. He shall also, immediately upon the filing of such petition, give notice in writing thereof to said recorder, and to the agent or agents of the said petitioners; and the recorder, on receiving such notice, shall not record said transcript and map, or certify the same as above provided, until after the final hearing and disposition by the court or judge of the said petition.

Recorder to
transmit papers
to clerk.

SEC. 22. On receiving notice as above provided, the recorder shall forthwith transmit to the clerk of the court where the petition is pending, all the papers relating to said proceeding filed with him as required by section fifteen, to be used on the hearing of said petition.

Duty of court or
judge, &c.

SEC. 23. It shall be the duty of the said court or judge to hear said petition in a summary manner, and, at his discretion, to hear evidence, and if no error shall be found in said proceedings, and no inaccuracy in the boundaries of such proposed corporation, the court or judge shall dismiss said petition, and thereupon the clerk of the court shall return the papers to the recorder, with a transcript of the order of the court, and the recorder shall then immediately record the said certified transcript, petition, map and order of the court, and forward and deliver the same as above provided. But

if error shall be found in the said proceedings, or the boundaries are so inaccurately described as to render indefinite and uncertain the limits or extent of such proposed corporation, then the court or judge shall make an order enjoining said recorder from making a record of the said transcript or map, but such order shall be no bar to any subsequent application for the foregoing purpose to the county commissioners.

SEC. 24. The first election of officers of such corporation shall be at the first annual spring election after the same has been created, and the place for holding such election shall be fixed by said agent or agents, and notice thereof shall be by them given by posters, printed or in writing, at three or more public places within the limits of the corporation. Said election shall be conducted and the officers thereof chosen and qualified in the same manner prescribed by law for the election of township officers.

First election of officers.

SEC. 25. When the inhabitants residing upon adjacent portions of territory, in two or more counties, laid off into town lots, a plat or plats of which have been made, acknowledged and recorded, desire to be organized into an incorporated village or into an incorporated village for special purposes, the petition therefor shall be made to the commissioners [of the county] in which the largest number of the qualified voters of the proposed village shall reside at the time of the filing of such petition, and a statement to that effect shall be set forth in the petition. The transcript of the proceedings of the commissioners and the map or plat accompanying the same, shall be recorded in the county in which the petition is filed, at the time and in the manner provided for in other cases; and the recorder of such county shall, within ten days thereafter, make a certified transcript of such record for each of the counties in which any portion of the territory is situated, and forward the same to the respective recorders thereof, to be by them recorded in the manner that the original papers are required to be recorded.

Procedure when territory lies in two or more counties.

SEC. 26. In all other respects the proceedings to establish such corporation, or to review the action of the commissioners, shall be as provided in cases where all the inhabitants residing on the territory to be organized into such corporation reside in one county.

The same.

SEC. 27. In all cases in which the jurisdiction of officers of municipal corporations is made co-extensive with the county in which such corporations are situated, the jurisdiction of the like officers of any municipal corporation embracing territory situated in two or more counties, shall be co-extensive with each of the counties in which any part of such territory shall be located.

Jurisdiction of officers

SEC. 28. Every officer shall be entitled to receive, for the services required to be performed by him under the preceding sections of this chapter, the same fees he would be entitled to receive for similar services in other cases, and unless paid in advance, upon demand of the agent or agents of said petitioners, he shall not be required to perform the said services.

Fees of officers.

CHAPTER III.

OF THE MANNER INCORPORATED VILLAGES FOR SPECIAL PURPOSES MAY BE ADVANCED TO THE GRADE OF INCORPORATED VILLAGES.

SECTION

29. Advance of grade, to incorporated village.

30. Application therefor.

31. What petition shall contain.

32. Trustees to fix time of holding election.

33. Conduct of the election, &c.

SECTION

34. Effect of negative vote.

35. Procedure on affirmative vote.

36. Record of proceedings, transcript, &c.

37. Duty of recorder, judge, &c., same as in case of incorporated village.

38. Corporation complete.

39. First election of officers, &c.

Advance of grade.

SEC. 29. Whenever the inhabitants of any incorporated village for special purposes, or any portion thereof, desire to be advanced to an incorporated village, they may proceed in the following manner:

Application therefor.

SEC. 30. Application for such purpose shall be made to the trustees of such incorporated village for special purposes, by petition, in writing, signed by at least fifty of the legal voters of such incorporated village for special purposes, a majority of whom shall be freeholders.

What petition shall contain.

SEC. 31. Such petition shall set forth that such incorporated village for special purposes, contains the required population for an incorporated village, and that it is the desire of the inhabitants to be advanced to the grade of an incorporated village, and it shall ask that an election be held to obtain the sense of the electors upon such advancement.

Trustees to fix time of holding election.

SEC. 32. The trustees upon receiving such petition and being satisfied that the persons whose signatures are thereto are electors and reside within such corporation, and that a majority of them are freeholders, shall fix upon the time and place for holding such election, and shall cause notice thereof to be given, by posters, printed or in writing, for the period of at least three weeks prior to such election, in three or more of the most public places within such corporation.

Conduct of the election, &c.

SEC. 33. The trustees of such corporation shall be the judges of said election, and the said election, in all respects, shall be conducted in the same manner, so far as practicable, as is prescribed for the conduct of elections for township officers, and the ballots shall contain in writing or in print, or both, the words "for incorporated village" or the words "against incorporated village."

Effect of negative vote.

SEC. 34. If it shall appear that the number of votes cast "for incorporated village" is not a majority of all the votes cast at said election, then no further proceedings shall be had; but such result shall not be a bar to any future petition to the trustees in relation to the same subject.

Procedure on affirmative vote.

SEC. 35. If it shall appear that the number of votes cast "for incorporated village" is a majority of all the votes cast at said election, the trustees shall then, within a reasonable time, cause a census to be taken, by some suitable person to be by them appointed for such purpose, of all the inhabitants of such corporation. The person taking such census shall make and subscribe a certificate that he believes the same is

correct, and he shall be sworn or affirmed thereto by one of the said trustees or justice of the peace of the county.

SEC. 36. The said trustees shall cause to be entered on their journal an accurate minute of all their proceedings, together with the number of votes cast at said election "for incorporated village" and "against incorporated village," and the whole number of votes cast, and also the whole number of inhabitants of such corporation as ascertained by such census. They shall also, in case the census taken shows that such corporation contains the required population for an incorporated village, make out a complete certified transcript of all journal entries and proceedings by them had in the premises, and shall sign their names, or a majority of them, thereto, and deliver the same, together with the said census and poll-book and tally-sheet, to the recorder of the county.

Record of proceedings, transcript, &c.

SEC. 37. The duty of the recorder in relation thereto, and in case of petition by the prosecuting attorney to prevent such advancement being completed, the duty of the prosecuting attorney and the court or judge, shall be the same, and the same proceedings shall be had, so far as applicable, as in the case of the organization of an incorporated village, or an incorporated village for special purposes, under chapter two of this act.

Duty of recorder, judge, &c., same as in case of incorporated village.

SEC. 38. So soon as the recorder shall make the record and certify and forward to the secretary of state a transcript of the same, such corporation shall be deemed and held to be an incorporated village, bearing the name of the said incorporated village for special purposes, to be organized and governed under the provisions of this act, and so soon as such incorporated village shall be actually organized by the election and qualification of its officers, as hereinafter provided, notice of its existence as such shall be taken in all judicial proceedings in this state.

Corporation complete

SEC. 39. The first election of officers of such incorporated village, shall be at the first annual spring election next ensuing the certifying and forwarding of the transcript by the county recorder, and the said trustees of such incorporated village for special purposes shall remain in office until the officers of the new corporation are elected and qualified, and by-laws, regulations and ordinances, adopted for the government of such incorporated village for special purposes, shall remain in force so far as may be consistent with the provisions of this act, until annulled or repealed by the council of such incorporated village; and the said trustees shall, upon demand, after the expiration of their term of office, deliver to the clerk of such incorporated village all the books of record, documents and papers in their possession as the trustees of such incorporated village for special purposes.

First election of officers, &c.

CHAPTER IV.

OF THE MANNER IN WHICH INCORPORATED VILLAGES MAY
BE ADVANCED TO CITIES OF THE SECOND CLASS; AND
CITIES OF THE SECOND CLASS ADVANCED TO CITIES OF
THE FIRST CLASS.

SECTION

40. Advancement of villages, and cities
of second class.
41. Certificate of clerks and judges.
42. Census to be taken, &c.
43. Effect of negative vote, &c.

SECTION

44. Declaration of Council on affirmative
vote, &c.
45. Record, &c., same as in creation of in-
corporated villages.
46. First election of officers.

Advancement
of villages and
cities of second
class.

SEC. 40. Whenever one hundred resident freeholders of any incorporated village, or two hundred resident freeholders of any city of the second class, shall petition the council of the corporation in which they reside, setting forth that they desire such village to be advanced to the grade of a city of the second class, or such city of the second class to be advanced to the grade of a city of the first class, and that they have the requisite population for such advancement, the council shall cause notice to be given by the mayor as in other cases, that at the next annual election for officers of such city or village, the electors thereof may vote for or against the advancement by writing or printing, or both, on their ballots the words "for advancement," or the words "against advancement."

Certificate of
clerks and
judges.

SEC. 41. The clerks and judges of the election shall forthwith certify in duplicate to the clerk of the corporation the whole number of votes given at such election; the number of votes given "for advancement" and number of votes "against advancement."

Census to be
taken, &c

SEC. 42. If a majority of all votes cast at such election shall be in favor of such advancement, the council, if such corporation shall not have the required population according to the last federal census taken prior to the election, shall forthwith cause a census to be taken by one or more suitable persons, of all the inhabitants of such city or village, in which census the full name of each person shall be plainly written, alphabetically arranged and regularly numbered in one complete series; which list shall be certified and sworn or affirmed to by the person or persons taking the same, and filed with the clerk of the corporation.

Effect of nega-
tive vote, &c.

SEC. 43. The clerk shall lay the said certificates of election and census before the council at their next regular meeting after the same shall have been filed in his office, and if it shall appear that all the votes cast at such election "for advancement" are not a majority of all the votes cast at said election, or that the corporation does not contain the requisite number of inhabitants to be advanced in grade, then no further proceedings shall be had.

Declaration of
council on
affirmative vote,
&c.

SEC. 44. If it shall appear that the corporation contains the requisite number of inhabitants to be advanced, the council shall thereupon, by resolution, declare that the inhabitants of the corporation have decided to be advanced to a corpora-

tion of the next higher grade, and direct the clerk to certify said resolution to the recorder of the county.

SEC. 45. The duty of the recorder in relation thereto shall be the same, so far as applicable, as provided in chapter two, in the case of the creation of an incorporated village or an incorporated village for special purposes; and so soon as the recorder shall make the record and certify and forward to the secretary of state a transcript of the same, the said corporation shall be deemed and held to be a city of the second or first class, as the case may be, to be organized and governed under the provisions of this act; and so soon as such corporation shall be actually organized, by the election and qualification of officers, notice of its existence as such, shall be taken in all judicial proceedings in this state.

Record, &c.
same as in crea-
tion of incor-
porated villages.

SEC. 46. The first election of officers of the new corporation shall be at the first annual spring election next ensuing the proceedings had as aforesaid, and the officers of the old corporation shall remain in office until the officers of the new corporation are elected and qualified; and the ordinances, by-laws and regulations adopted by the old corporation shall continue in force, so far as may be consistent with the provisions of this act, until annulled or repealed by the council of the new corporation; and the council and officers of the old corporation shall, upon demand, after the expiration of their term of office, deliver to the proper officers of the new corporation, all the books of record, documents and papers in their possession belonging to the old corporation.

First election
of officers.

CHAPTER V.

INCORPORATED VILLAGES FOR SPECIAL PURPOSES.

SECTION

- 47. Trustees of village for special purposes.
- 48. Their term of service.
- 49. Their powers and duties.
- 50. Vacancy, how filled, &c.
- 51. Duty of trustees.
- 52. Limitation of power.
- 53. Further powers of trustees.

SECTION

- 54. Powers as to by-laws, &c.
- 55. Compensation of marshal.
- 56. Jurisdiction of justices of the peace.
- 57. Perpetuity of existing officers, ordinances, &c.
- 58. Duty of clerk as treasurer—oath of office.

SEC. 47. The corporate authority of incorporated villages for special purposes shall be vested in three trustees, who shall be qualified electors residing within the limits of such corporation, and who shall hold their office for three years, except as herein provided, and until their successors are elected and qualified.

Trustees of vil-
lage for special
purposes.

SEC. 48. At the first meeting of the trustees elected under the provisions of this act, they shall determine, by lot, the term of service of each trustee so elected, so that one shall serve for one year, one for two years, and one for three years, and at every succeeding annual election one trustee shall be elected to serve for three years.

Their term of
service.

Their powers
and duties.

SEC. 49. The said trustees shall have power to appoint, either from their own body or from the electors of the corporation, a clerk, who shall act as treasurer, and a marshal, who shall act as supervisor, and such other police officers as shall be necessary, and by proper by-laws, resolutions and ordinances prescribe the duties and compensation of the officers so appointed, and may remove any such officers and appoint others at their discretion.

Vacancy, how
filled, &c.

SEC. 50. The said trustees shall have power to fill any vacancy which may happen in their own body from the qualified electors of the corporation, and the person so appointed shall continue in office until the next regular election and until his successor is elected and qualified; any two of said trustees may transact business; but notice of any meeting for the transaction of business must be given to all.

Duty of trustees.

SEC. 51. The said trustees shall have the exclusive jurisdiction of all public roads, streets, alleys, sewers and drains, constructed or to be constructed, within the limits of the corporation; and they shall have power to construct and keep in repair bridges and sidewalks; to lay out, establish, open, widen, improve, straighten, keep in order and repair roads, streets and alleys; to open and construct and keep in order and repair sewers and drains; to enter upon and take for the purposes aforesaid, when necessary, land and material, and to assess and collect a charge for the construction, improvement and repair of any such road, street or alley.

Limitation of
power.

SEC. 52. No order directing the opening of any new road, street or alley, or the taking of any land for the improvement, straightening or changing any road, street or alley, shall be made by said trustees, nor shall any ordinance be passed for such purpose, unless they shall all concur therein; and no order shall be made for the improvement or repair of any road, street or alley, except on the petition of two-thirds of the owners of the lots or land through or by which such road, street or alley, or part thereof to be improved or repaired, shall pass.

Further powers
of trustees.

SEC. 53. The said trustees shall have power to provide as follows: 1. To protect the property and persons of the inhabitants against injuries and destruction by fire, thieves, robbers, burglars, and all other persons violating the public peace. 2. To suppress riots, noise and disturbance, gambling, drunkenness, and indecent and disorderly assemblages and conduct. 3. To punish all lewd and lascivious behavior in the streets, alleys and other public places. 4. To suppress and restrain disorderly houses and houses of ill-fame. 5. To regulate, restrain and prohibit ale, beer and porter houses or shops, and houses and places of notorious and habitual resort for tippling and intemperance. 6. To regulate taverns and other houses of public entertainment. 7. To regulate or prohibit theatrical exhibitions and public shows, and all exhibitions of whatever name or nature for which money is demanded or received, but public lectures on historic, literary or scientific subjects shall not come within the provisions of this section. 8. To prevent injury or annoyance from anything dangerous, offensive or unhealthy, and to cause any nuisance to be

abated. 9. To acquire real estate for public halls and school houses and to erect the necessary buildings thereon. 10. To protect all public buildings and property within or owned by the corporation. 11. To provide public cemeteries and for the improvement and protection thereof, and to regulate the burial of the dead; and 12. To provide for the comfort, convenience and safety, preserve the health and peace, promote the good order and prosperity, and improve the morals of the inhabitants of the corporation.

SEC. 54. The said trustees shall have power to make and publish, in the same manner as other corporations, such by-laws, resolutions and ordinances as to them shall seem necessary to carry into effect the foregoing powers; and shall have, in all respects, the like rights and remedies in the enforcement of such by-laws, resolutions and ordinances, as are herein given to other municipal corporations. All by-laws and ordinances shall require for their adoption the concurrence of all the trustees.

Powers as to
by-laws, &c.

SEC. 55. The services performed by the marshal in his capacity of supervisor, under the direction of the trustees, shall be settled and paid for by the trustees of the proper township or townships as in other cases; and for his services as marshal he shall receive the same fees as marshals in other municipal corporations for like services. The trustees, in their capacity as trustees, shall not receive any compensation.

Compensation
of marshal.

SEC. 56. Any justice of the peace of the township or townships in which the corporation may be situated, shall have jurisdiction in all prosecutions for the violation of any ordinance thereof, with full power to hear and determine the same and impose the prescribed penalty; and all fines, penalties and forfeitures collected by any justice of the peace for the violation of any ordinance, shall be by him paid over to the clerk of the corporation.

Jurisdiction of
justices of the
peace.

SEC. 57. All trustees and officers of corporations heretofore organized and now existing as special road districts, shall continue in office as trustees and officers of incorporated villages for special purposes, as herein established, until their successors are elected and qualified; and all by-laws, resolutions and ordinances of such special road districts shall continue in force as by-laws, resolutions and ordinances of the incorporated village for special purposes, until repealed.

Perpetuity of
existing officers,
ordinances,
&c.

SEC. 58. The clerk, in his capacity as treasurer, shall be entitled to demand and receive all moneys due or belonging to the corporation, and shall disburse the same on the order of the trustees; and the clerk and marshal shall each give bond to the corporation for the faithful performance of their duties, in such sum as the trustees may require. The trustees and other officers shall, before entering on their duties, take an oath of office.

Duty of clerk
as treasurer—
oath of office.

CHAPTER VI.

OFFICERS OF MUNICIPAL CORPORATIONS.

SECTION

59. Village officers to be elected.
 60. Officers of cities of second class.
 61. Officers of cities of first class.
 62. Their term of office.
 63. Other requisite officers.
 64. Appointments, how made.

SECTION

65. Duties not defined in this act.
 66. Vacancies, how filled.
 67. Vacancy on removal.
 68. Council to prescribe compensation.
 69. No change of emoluments during term of office.

Village officers
to be elected.

SEC. 59. The officers of incorporated villages shall consist of a mayor, clerk, treasurer and marshal, all of whom shall be elected; and the council shall have power, whenever deemed expedient, to create, by ordinance, the office of solicitor and street commissioner, and provide for their election in the same manner the other officers of the corporation are elected.

Officers of cities
of second class.

SEC. 60. The officers of cities of the second class shall consist of a mayor, clerk, treasurer, city commissioner, who shall be superintendent of streets, marshal and solicitor, all of whom shall be elected; and the council shall have power, whenever deemed expedient, to create, by ordinance, the office of auditor, civil engineer, fire engineer, and superintendent of markets, and provide for their election in the same manner the other officers of the corporation are elected.

Officers of cities
of first class.

SEC. 61. The officers of cities of the first class shall consist of a mayor, solicitor, treasurer, street commissioner, police judge, prosecuting attorney of the police court, clerk of the police court, all of whom shall be elected; and a fire engineer, superintendent of markets, civil engineer and chief of police, to be appointed by the mayor with the assent of the council; and a clerk and auditor, to be elected by the council; and the council shall have power to provide, by ordinance, for the election or appointment by the mayor, of as many lieutenants of police as may be deemed necessary.

Their term of
office.

SEC. 62. All officers who are elected shall serve for two years and until their successors are elected and qualified, and all officers who are appointed shall serve for one year and until their successors are appointed and qualified.

Other requisite
officers.

SEC. 63. The council shall have power to provide for the appointment, or election by the qualified electors of the corporation, wards or districts, as the case may require, of all such other officers as shall be deemed necessary for the good government of the corporation and the full execution of its corporate powers.

Appointments,
how made.

SEC. 64. All appointments of officers of municipal corporations created by law or ordinance, shall be made by the mayor, by and with the advice and consent of the council, and the concurrence of a majority of all the members elected shall be required to confirm any such appointment, and the names of those voting, and for whom they voted on the vote resulting in an appointment, shall be recorded.

SEC. 65. All officers whose powers and duties are not defined in this act, shall perform such duties, and exercise such powers, as shall be prescribed by ordinance.

Duties not defined in this act.

SEC. 66. All vacancies in offices filled by appointment, and all other vacancies occurring within sixty days prior to the annual corporation election, shall be filled by appointment, as in other cases; and such appointment shall be for the unexpired term and until a successor is elected and qualified; and all elections to fill vacancies shall be for the unexpired term. All vacancies in any other office created by this act, shall be filled in the manner above provided.

Vacancies, filled.

Vacancy on removal.

SEC. 67. When any officer shall remove without the limits of the corporation, such removal shall be deemed a vacating of the office; and the vacancy shall be filled as in other cases.

Council to prescribe compensation.

SEC. 68. Officers of municipal corporations, who are not prohibited from receiving compensation, or whose compensation is not by law provided for, shall receive such fees or compensation for their services as the council may prescribe.

No change of emolument during term of office.

SEC. 69. The emoluments of no officer, whose election or appointment is required by this act, shall be increased or diminished during the term for which he may have been elected or appointed; nor shall any change of compensation affect any officer whose office shall be created under authority of this act, during his existing term, unless the office be abolished; and no person who shall have resigned or vacated any office shall be eligible to the same during the time for which he was elected or appointed to serve, when, during the same time, the emoluments have been increased.

CHAPTER VII.

ELECTION OF OFFICERS.

SECTION

70. Elections first Monday of April.

71. Special elections.

72. Council to designate places of election.

73. Mayor to issue proclamation.

SECTION

74. Who are qualified voters.

75. Returns of elections.

76. Clerk to make out abstract of votes.

77. Judges and clerk of election.

78. Tie vote to be decided by lot.

SEC. 70. The first Monday in April shall be the regular annual period for the election of all municipal officers whose election is provided for in this act.

Elections first Monday of April.

SEC. 71. Special elections of members of the council, or of any officer chosen by the electors, shall be held within twenty days after a vacancy happens, (unless the regular day for municipal elections shall occur within sixty days after such vacancy,) at such time and place as the mayor shall direct, so that ten days' notice of such election be first given.

Special elections.

SEC. 72. The council of every municipal corporation shall designate the place or places for holding the regular elections; and in all corporations divided into wards, there shall be a place in each ward designated for holding elections.

Council to designate place of elections.

SEC. 73. It shall be the duty of the mayor, in all elections for municipal officers, to issue a proclamation to the qualified voters of the corporation, or of the respective wards or dis-

Mayor to issue proclamation of election.

tricts, as the case may require, setting forth the time and places of election, and the officers to be chosen, and to cause such proclamation to be published in some newspaper printed in such corporation at least ten days previous to the election; or if no newspaper be published in the corporation, such notice may be given by posters.

Who are qual-
ified voters.

SEC. 74. Any person who, at the time of any election of municipal officers, would be a qualified voter, under the laws of the state, for county officers, and shall actually reside in the corporation or ward in which he offers to vote, shall be deemed a qualified voter; and all elections shall, in all respects, be held and conducted in the manner prescribed by law in case of township elections.

Returns of elec-
tions.

SEC. 75. The returns of all municipal elections in corporations which are divided into election districts or wards, shall be made to the clerk of the corporation, and shall be opened by him within the time prescribed as to the clerk of the court of common pleas in county elections.

Clerk to make
out abstract of
votes.

SEC. 76. The clerk, or in his absence or disability, some person to be selected by the council, shall call to his assistance the mayor of the corporation, or if there be no mayor, or the mayor be absent, disabled, or shall have been a candidate at such election, then any justice of the peace of the county, and shall, in his presence, make out an abstract and ascertain the candidates elected, in all respects as required by law of the clerk of the court of common pleas; and he shall in like manner, make out a certificate as to each candidate so elected, and cause the same to be delivered to him, or to be left at his usual place of abode.

Judges and clerk
of election.

SEC. 77. At all elections in corporations which are not divided into election districts or wards, the mayor and council, any three of whom shall be a quorum, shall serve as judges, and the clerk shall serve as clerk; and after canvassing the votes which may be given at such election, shall declare the result, and the clerk shall make out and deliver to each person elected to any office in such corporation a certificate of such election.

Tie vote to be de-
cided by lot.

SEC. 78. If more than the number of persons to be elected have an equal number of votes for the same office, then the officers whose duty it is to ascertain the persons elected, as above provided, shall determine, by lot, which of the persons receiving such equal number of votes shall be declared elected.

CHAPTER VIII.

QUALIFICATIONS, OATH AND BOND OF OFFICERS.

SECTION

79. Electors only eligible—oath of office.
80. Bond of officers.

SECTION

81. Bond and oath required within ten days.

Electors only
eligible—oath of
office.

SEC. 79. All officers shall be electors of the corporation in which they may be elected or appointed; and before entering upon the duties of their office shall take an oath or affirm-

ation to support the constitution of the United States, and the state of Ohio, and also an oath or affirmation of office.

SEC. 80. Each officer named in chapter six, shall, before entering upon the duties of his office, execute a bond, to be approved by the mayor, (except the bond of the mayor shall be approved by the council,) in such amount as the council shall, by ordinance, prescribe, conditioned for the faithful performance of the duties of his office, which bond (except the bond of the clerk) shall be deposited with the clerk of the corporation, and be by him, with the approval endorsed thereon, recorded and filed and preserved in his office, and the bond of the clerk shall, after being by him recorded, be deposited with the mayor.

Bond of officers

SEC. 81. The council may require from each officer whose appointment is provided for in section sixty-three, a bond, with proper penalty and surety, for the faithful discharge of the duties of his office; and shall have power to declare the office of any person appointed or elected to any office who shall fail to take the oath of office, or give bond when required, for ten days after he shall have been notified of his appointment or election, vacant, and such vacancy shall be filled as in other cases of vacancy.

Bond and oath required within ten days.

CHAPTER IX.

COUNCIL OF THE CORPORATION.

SECTION

- 82. The council.
- 83. Members must be residents.
- 84. Prerogative.
- 85. First election—terms of office.
- 86. First meeting of council.
- 87. Organisation of council.
- 88. Rights, duties, &c. of council.
- 89. Ex-officio members of council.

SECTION

- 90. Times and place of meeting.
- 91. Compensation of members.
- 92. Members shall not be interested in contracts; penalty, &c.
- 93. Who ineligible.
- 94. Expulsion and removal.
- 95. Process to compel attendance.
- 96. Administration of oaths.

SEC. 82. The legislative authority of all incorporated villages shall be vested in a council consisting of six members, except in incorporated villages divided into three or more wards, when such authority shall be vested in a council composed of two members from each ward. The legislative authority of all cities shall be vested in a council consisting of two members from each of the wards.

The council.

SEC. 83. The members of the council shall be residents of the corporation from which they shall be elected, and if the corporation be divided into wards, then residents of the ward for which they shall be elected.

Members must be residents

SEC. 84. The council shall have the management and control of the finances, and of all the property, real and personal, of the corporation, except as may be otherwise provided for by law.

Prerogative.

SEC. 85. At the first election for council of incorporated villages under this act, three of the members shall be elected to serve for one year, and three for two years; and in such incorporated villages as may be divided into three or more wards, one of the members of the council for each of the

First election—terms of office.

wards shall be elected to serve for one year, and one for two years; and thereafter, in all incorporated villages, the members of the council shall be elected to serve for two years.

First meeting of council.

SEC. 86. It shall be the duty of the mayor, or in his absence or inability, then the clerk, at the hour of the first regular meeting of the council after the second Monday of April in each year, to call the members elect to that body and the members holding over, who may be assembled, to order, and as the members elect are called, they shall present their certificates and take the required oath or affirmation. In incorporated villages, the mayor shall be the president of the city council, but shall have no vote except in cases of a tie. In case of his absence from any meeting, the council shall appoint one of their number to perform his duties for the time being.

Organization of council.

SEC. 87. In all cities, if the members elect of the council and the members holding over, then present, shall constitute a quorum, they shall forthwith proceed to organize by electing, from their own number, a president, and a president pro tem., and such other officers necessary to perfect their organization as, by ordinance, may be provided, and no business shall be transacted until such organization is effected.

Rights, duties, &c., of council

SEC. 88. The council shall be the judge of the election, returns and qualifications of its own members, and shall determine the rule of its proceedings and keep a journal thereof, and may compel the attendance of absent members in such manner and under such penalties as may, by ordinance, be prescribed.

Ex-officio members of council.

SEC. 89. The city auditor, the city civil engineer, and the city solicitor shall have seats in the council, and be entitled to take part in its proceedings and deliberations on all questions relating to their respective departments, subject to such rules as the council shall from time to time prescribe, but without the right to vote. Said officers may be compelled to attend meetings of the council in the same manner as the members are.

Times and place of meeting.

SEC. 90. The council shall not be required to hold more than one regular meeting in each week; and the meeting of such council may be held at such time and place as may be by ordinance prescribed, and shall, at all times, be opened to the public. The mayor, or any three members may call special meetings by notice to each member served personally, or left at his usual place of abode.

Compensation of members.

SEC. 91. The members of the council shall not receive any compensation for their services, except when acting as judges of election, when they shall receive such compensation as is provided by law for judges of election.

Members shall not be interested in contracts; penalty, &c.

SEC. 92. No member of the council or any officer of the corporation shall be interested, directly or indirectly, in the profits of any contract, job, work, or services, (other than official services to be performed for the corporation,) nor shall any member or officer act as commissioner, architect, superintendent or engineer in any work undertaken or prosecuted by the corporation during the term for which he was elected or appointed, or for one year thereafter.

any city council or officer herein specified, offending against the provisions of this section, shall, upon conviction thereof in any court of competent jurisdiction, be fined in any sum not less than five hundred nor more than one thousand dollars, or be imprisoned in the county jail not less than thirty days nor more than six months; or both, at the discretion of the court, and shall, in addition thereto, forfeit his office as such member of the council or officer of the corporation.

SEC. 93. No person shall be eligible as a member of the council, who, at the time, holds any municipal office, or is an employe under the government of the corporation.

Who ineligible.

SEC. 94. Any member of the council may be expelled or removed from office by a concurrent vote of two-thirds of all the members elected, but not a second time for the same cause; any officer or agent, appointed by authority of this act, may be removed from office at the pleasure of the council by the vote of a majority thereof; any officer elected may be removed from office by a concurrent vote of two-thirds of all the members of the council elected. In case of elective officers, provision shall be made by ordinance for preferring charges and trying the same; but in no case shall such removal be made unless a charge in writing is preferred and an opportunity given to make defense.

Expulsion and removal.

SEC. 95. To enable the council fully to investigate charges against the members thereof, or other officers, or such other matters as they may deem proper, the mayor or police judge, at the request of the council, are hereby empowered to issue subpoena or compulsory process, to compel the attendance of persons, and the production of books and papers before the council or any committee of the same.

Process to compel attendance.

SEC. 96. In all cases in which the council are authorized to compel the attendance of witnesses for the investigation of matters which may come before them, the presiding officer for the time being shall have power to administer the requisite oaths; and such council shall have such power to compel the giving of testimony by the attending witnesses as is conferred on courts of justice.

Administration of oaths.

CHAPTER X.

ORDINANCES, RESOLUTIONS AND BY-LAWS—HOW ADOPTED AND PASSED.

SECTION

- 97. Adoption of ordinances, &c.
- 98. Must be read three times, unless, &c.
- 99. Subject, and amendment, of by-laws, &c.
- 100. Recording and publishing of by-laws, ordinances, &c.

SECTION

- 101. Statement as to publication.
- 102. Mode of publication.
- 103. Effect of non-publication.
- 104. By-laws, ordinances, &c., as evidence.

SEC. 97. All ordinances and resolutions, and all by-laws for the government of the council, shall require for their passage or adoption the concurrence of a majority of all the members elected, and the vote on their passage or adoption shall

Adoption of ordinances, &c.

be taken by yeas and nays and recorded on the journal; and no money shall be appropriated except by ordinance.

Must be read
thre. times, un-
less &c.

SEC. 98. All by laws, resolutions and ordinances, of a general or permanent nature, shall be fully and distinctly read on three different days, unless three-fourths of all the members elected shall dispense with the rule; and the vote on such suspension shall be taken by yeas and nays and entered on the journal.

Subject and
amendment of
by laws, &c.

SEC. 99. No by-law or ordinance shall contain more than one subject, which shall be clearly expressed in its title; and no by-law or ordinance, or section thereof, shall be revived or amended unless the new by-law or ordinance contain the entire by-law, or ordinance, or section revived or amended; and the by-law or ordinance, section or sections, so amended, shall be repealed.

Recording and
publishing of by-
laws, ordinan-
ces, &c.

SEC. 100. All by-laws, resolutions and ordinances, shall, as soon as may be after their passage, be recorded in a book kept for that purpose, and be authenticated by the signature of the presiding officer and clerk of the council, and all ordinances shall be published in some newspaper of general circulation in the corporation; if a daily six times, and if a weekly twice, before going into operation.

Statement as to
publication.

SEC. 101. The clerk shall, immediately after the expiration of the period of such publication, enter, on the record book of ordinances, in a blank space to be left for such purpose under the recorded ordinance, a certificate stating in what newspaper and of what dates such publication was made, and sign his name thereto officially, and such certificate shall be prima facie evidence that legal publication of such ordinance has been made.

Mode of publi-
cation.

SEC. 102. In all corporations in which there is no newspaper published, publication may be made by posting up written copies of all ordinances at not less than five of the most public places in the corporation, for a period of not less than fifteen days prior to the taking effect thereof; and the clerk shall make a certificate of such posting and the times when, and the places where, in the same manner as provided in the preceding section, and such certificate shall be prima facie evidence that such copies were posted up as required.

Effect of non-
publication.

SEC. 103. It shall be deemed a sufficient defense to any suit or prosecution under any ordinance, to show that no such publication or posting as herein required, was made.

By-laws, ordi-
nances, &c.,
as evidence.

SEC. 104. The printed copies of the by-laws or ordinances of any corporation, published under its authority, and transcripts of any by-laws or ordinances, or of any act or proceeding of any municipal corporation, recorded in any book, or entered on any minutes or journal, kept under the direction of such corporation, and certified by its clerk, shall be received in evidence for any purpose for which the original books, ordinances, minutes or journal, would be received, and with as much effect.

CHAPTER XI.

ORDINANCES—HOW ENFORCED.

SECTION	SECTION
105. How ordinances, &c., enforced.	110. Party to be committed in default of payment.
106. Amount of fines, &c.	111. Imprisonment, where to be made.
107. Imprisonment.	112. Imprisonment in county jail may be prohibited.
108. How fines, &c., recovered.	113. Limit of such prohibition.
109. Suits must be commenced within one year.	

SEC. 105. By-laws and ordinances of municipal corporations may be enforced by the imposition of fines, forfeitures and penalties, on any person or persons offending against or violating such by-laws or ordinances, or any of them; and the fine, penalty or forfeiture, may be prescribed in each particular by-law or ordinance, or by a general by-law or ordinance, made for that purpose: and municipal corporations shall have power to provide, in like manner, for the prosecution, recovery and collection of such fines, penalties or forfeitures.

How ordinances,
&c., enforced.

SEC. 106. Fines, penalties and forfeitures which shall not exceed the sum of fifty dollars for any one specified offense, or violation of the by-law or ordinance, or double that sum for each repetition of such offense or violation, or which shall not exceed ten dollars for each day where the thing prohibited or rendered unlawful is in its nature continuous in respect to time, shall be deemed reasonable; but where in any by-law or ordinance a greater fine, penalty or forfeiture, is imposed than as above specified, it shall be lawful for the court or magistrate, in any suit or prosecution for the recovery thereof, to reduce the same to such amount as shall be deemed reasonable and proper, and to permit a recovery or render judgment accordingly.

Amount of fines,
&c.

SEC. 107. In addition to the fines and penalties above specified, the council may provide for a further penalty of imprisonment for any term not exceeding thirty days, and for keeping persons convicted at hard labor during their term of imprisonment, at such time and place, and in such manner as may be prescribed by ordinance.

Imprisonment,
and hard labor.

SEC. 108. Fines, penalties and forfeitures may, in all cases, and in addition to any other mode provided, be recovered by suit or action before any justice of the peace or other court of competent jurisdiction, in the name of the proper municipal corporation, and for its use; and in any suit or action where pleading is necessary, it shall be sufficient if the petition set forth generally the amount claimed to be due in respect of the violation of the by-law or ordinance, referring to its title, and the date of its adoption or passage, and showing, as near as may be, the true time of the alleged violation.

How fines, &c.,
recovered.

SEC. 109. All suits or prosecutions for the recovery of fines, penalties or forfeitures, or for the commission of any offense made punishable by any by-law or ordinance of any municipal corporation, shall be commenced within one year after the violation of the ordinance, or commission of the offense, and not afterward.

Suits must be
commenced
within one year.

Party to be committed in default of payment.

SEC. 110. When any fine shall be imposed for the violation of any ordinance of the corporation, and the same is not paid, the party convicted shall, by order of the mayor or other proper authority, or on process issued for the purpose, be committed until such fine and the costs of prosecution shall be paid, or the party discharged by due process of law.

Imprisonment, where to be made.

SEC. 111. When any person shall be imprisoned under the provisions of this act, such imprisonment shall be in the jail of the corporation, if the corporation be provided with a jail; and any corporation not provided with a jail, shall be allowed, for the purpose of imprisonment, the use of the jail of the county, at the expense of the corporation, until such corporation shall have provided a prison, house of correction, or work-house; and all persons so imprisoned in the county jail shall be under the charge of the sheriff of the county, who shall receive and hold such persons in such manner as shall be prescribed by the ordinances of the corporation, until discharged by due course of law.

Imprisonment in county jail may be prohibited.

SEC. 112. The county commissioners may, at their discretion, on giving to the council of any corporation written notice of their intention so to do at least ninety days prior thereto, prohibit the use of the county jail for the purpose authorized in this chapter.

Limit of such prohibition.

SEC. 113. If, within ninety days after such notice shall have been given, the council of such corporation shall have efficiently provided, by the passage of appropriate ordinances, and the making of the necessary contracts, for the immediate erection of a prison, work-house, or house of correction, for the purpose of imprisonment authorized by this act, the said corporation shall continue, notwithstanding the notice and prohibition provided for in the preceding section, to have the use of the county jail, for the purpose of imprisonment, until such prison, work-house, or house of correction, shall be erected and ready for use.

CHAPTER XII.

POWERS AND DUTIES OF MUNICIPAL OFFICERS.

SECTION

- 114. Mayor—his jurisdiction, powers, &c.
- 115. Duties, fees, office, &c.
- 116. Further duties.
- 117. Jurisdiction.
- 118. Duties in suppression of disorder, &c.
- 119. Supervision of conduct of officers.
- 120. Supervision of prisons, &c.
- 121. Suspension of officers for neglect, &c.
- 122. Shall report to council annually.
- 123. Disposition of fines, &c.
- 124. Mayor as police judge.
- 125. Appeal from decisions of mayor.
- 126. Bond, salary, &c., of mayor.
- 127. Vacancy, how filled.
- 128. Clerk—his duties, &c.
- 129. He shall make a record, &c.
- 130. And post or publish it.

SECTION.

- 131. Shall report to state auditor, &c.
- 132. Shall certify to court.
- 133. Clerk of court shall record, &c.
- 134. Penalty for neglect.
- 135. When clerk shall perform duties of auditor.
- 136. Shall deliver books, &c., to city auditor.
- 137. Corporation seal.
- 138. Auditor—his powers and duties.
- 139. The same.
- 140. Marshal—his deputies.
- 141. His duties, &c.
- 142. The same.
- 143. Powers, responsibility, fees, &c.
- 144. Disposition of fines, &c.
- 145. Chief of Police.

SECTION.

- 146. Duties of Chief of police.
- 147. Powers. *See* same as marshal.
- 148. Compensation.
- 149. Shall receive no perquisites.
- 150. Disposition of fines, &c.
- 151. Treasurer—his powers and duties.
- 152. Further duties.
- 153. *The same.*
- 154. Compensation.
- 155. Duty of county treasurer.
- 156. *Ex-officio* corporation treasurer.

SECTION.

- 157. *Solicitor*—his duties.
- 158. *The same.*
- 159. *The same.*
- 160. When tax-payer may institute suit.
- 161. Duty of the court.
- 162. Solicitor's report.
- 163. His salary.
- 164. *School Commissioner, Civil Engineer, and Superintendent of Police*—their duties.
- 165. Their compensation.

I.—The Mayor.

SEC. 114. The mayor shall be a conservator of the peace throughout the corporation; and within the limits of the same shall have all the jurisdiction and powers of a justice of the peace, in all matters, civil and criminal, arising under the laws of the state, and for crimes and offenses his jurisdiction shall be coextensive with the county.

Jurisdiction,
powers, &c., of
mayor.

SEC. 115. The mayor shall keep a docket, and shall be entitled to receive the same fees that are or may be allowed justices of the peace for similar services; and he shall keep an office at some convenient place, to be provided by the council, in the corporation, and shall be furnished by the council with the corporate seal of the corporation, in the center of which shall be the words, "mayor of the city of ———," or "mayor of the incorporated village of ———," as the case may be.

Duties, fees
office, &c.

SEC. 116. The mayor shall perform all the duties by the by-laws and ordinances of the council prescribed; and it shall be his special duty to see that all ordinances, by-laws and resolutions of the council are faithfully obeyed and enforced; and he shall sign all commissions, licenses and permits granted by authority of the council or authorized by this act, and such other instruments as by law or ordinance may require his certificate.

Further duties.

SEC. 117. The mayor shall have exclusive jurisdiction of all prosecutions for violations of ordinances of the corporation, with full power to hear and determine the same, in all corporations where no police court has been or shall be established. His jurisdiction shall extend to cases where the defendant is entitled to a trial by jury, if a jury be not demanded, and he shall perform such other duties compatible with the nature of his office as the council may, from time to time, require.

Jurisdiction.

SEC. 118. The mayor shall have and exercise within the corporation limits, all the powers conferred upon sheriffs of the counties, to suppress disorder and keep the peace; and shall award and issue all such writs or process as may be necessary to enforce the administration of justice throughout the corporation, and for the lawful exercise of his jurisdiction according to the usages and principles of law; and to writs, process, transcripts and official papers, of whatsoever kind, he shall subscribe his name and affix his seal of office.

Duties in sup-
pression of dis-
order, &c.

SEC. 119. The mayor shall supervise the conduct of all the officers of the corporation, inquire into and examine the grounds of all reasonable complaints against any of them,

Supervision of
conduct of
officers, &c.

and cause all their violations or neglect of duty to be promptly punished or reported to the proper authority for correction.

Supervision of
prison, &c.

SEC. 120. The mayor shall also have power, and in his absence, the president of the council, to grant to the magistrates of adjoining or contiguous townships the temporary use of the corporation prison, station or watch houses, to confine criminals or other persons dangerous to the peace of the community, until they can safely be removed therefrom to the county jail, or other place of security.

Suspension of
officers for
neglect, &c.

SEC. 121. The mayor shall have power to suspend from office any lieutenants of police, or any officer appointed by him under the authority of any law or ordinance, for neglect of duty, misconduct in office, or other sufficient cause; and may appoint other persons to fill the temporary vacancy occasioned thereby; and all such suspensions, and the cause thereof, and all such appointments, shall be by him reported to the council for their action at the next regular meeting thereafter.

Annual report
to council.

SEC. 122. The mayor shall, at the first regular meeting of the council in April of each year, and at such other times as he may deem expedient, report to the council concerning the affairs of the corporation, and recommend such measures as to him may seem proper.

Disposition of
fines, &c.

SEC. 123. All fines, penalties and forfeitures which may be collected by the mayor, or which may in any manner come into his hands, and all moneys which may be received by him in his official capacity, other than his fees of office, shall be by him weekly paid over to the treasurer of the corporation; and at the first regular meeting of the council in each and every month, he shall submit a full statement of all such moneys received, and from whom and for what purposes received, and when paid over.

Mayor as police
judge.

SEC. 124. In all cities in which there is a police judge, the mayor shall not, except in cases of urgency or necessity, be required to hear or examine into any criminal charge or case, and any warrants issued by the mayor of such cities shall be made returnable before the judge of the police court; and in the unavoidable absence of the police judge, the mayor shall, if no acting police judge be by him appointed, have power to sit in the police court and perform the duties of the judge thereof.

Appeal from
decisions of
mayor.

SEC. 125. Appeals may be taken from the decision of the mayor, in the same manner as from decisions of justices of the peace; and any final sentence or conviction before the mayor, may be examined and revised in the same manner and by the same tribunal as is provided for the examination and revision of any final sentence or conviction in the police court.

Bond, salary,
&c., of mayor.

SEC. 126. The mayor shall give bond and security as is required by law of justices of the peace, to be approved by the council; and he shall, in addition to the fees he may be entitled to, receive such salary, payable quarterly out of the corporation treasury, as may be provided by ordinance; but

the amount of such salary shall neither be increased nor diminished during his term of office.

SEC. 127. In the case of the death, resignation, disability or other vacation of his office, the council may, by the vote of a majority of all the members elected, appoint some suitable person within the corporation to act as mayor and discharge the duties of such officer until such vacancy be filled or the disability be removed.

Vacancy, how filled.

II.—The Clerk.

SEC. 128. The clerk shall attend all the meetings of the council and make a fair and accurate record of all its proceedings, and of all rules, by-laws, resolutions and ordinances passed by the council; and the same shall be subject to the inspection of all persons interested. In case of his absence from any meeting, the council shall appoint one of their own number to perform his duties for the time being.

Duties of clerk, &c.

SEC. 129. The clerk shall, on or before the first Monday in March of each year, make and enter in the record book of the corporation, an account of all the receipts and expenditures of the corporation of the preceding year, stating from what sources the money was received, and for what purpose expended.

He shall make a record, &c.

SEC. 130. He shall cause a copy of such account to be posted up, at the places of holding elections for officers of the corporation, on the morning of the first Monday of April, annually; or the council may, by resolution, authorize him to publish the same in some newspaper published in the corporation, as soon after the first Monday of April as may be practicable.

And post or publish it.

SEC. 131. He shall, on or before the first Monday in June, in each year, report to the auditor of state the aggregate expenses of such corporation for the preceding year, under the following heads: school, police, streets, bridges, fire department, lights, poor, salaries and interest; and also the amount of the general corporation tax for all the preceding objects, and for any others not enumerated, and the special taxes of the corporation for the same period; any corporation clerk who shall neglect to make report as above provided, shall forfeit and pay the sum of one hundred dollars, to be recovered before any court having jurisdiction of the subject matter, in the name and for the use of the corporation.

Shall report to state auditor &c.

SEC. 132. The clerk shall certify to the court of common pleas of the county in which the corporation is situate, the election of every officer within the corporation having power to discharge the duties of a justice of the peace, or to take the acknowledgment of deeds, or to certify to depositions or affidavits to be used without the limits of such corporation, with the date of such election, and the time when such officer became legally qualified to discharge the duties of such office; which certificate shall be made within ten days after such qualification.

Shall certify to the court.

SEC. 133. It shall be the duty of the clerk of the court of common pleas to record the same in the book in which the

Clerk of court shall record, &c.

record of the elections and qualifications of justices of the peace are kept; and the same fees shall be allowed to the officers certifying and recording the same, as are allowed for certifying and recording the election and qualification of justices of the peace.

Penalty for neglect

SEC. 134. Every clerk whose duty it shall be to make such certificate, or to record the same when presented for record, who shall neglect or refuse to perform the duties enjoined by this chapter, shall pay to the treasurer of the corporation, the election of whose officer shall thereby remain uncertified or unrecorded, the sum of fifteen dollars, to be recovered in an action of debt, at the suit of said corporation; and also be liable for all damages arising from such neglect or refusal.

When clerk shall perform duties of auditor, &c

SEC. 135. In all corporations in which there is no city auditor the clerk shall perform the duties of auditor, under the direction of the council, and all such other duties pertaining to his office as shall by the council be prescribed; and he shall have the charge and custody of all the laws and ordinances, and the books, records and papers of the corporation, and shall carefully keep and preserve the same in his office, and shall certify all transcripts that may be required of any record or papers in his office, and shall be entitled to receive therefor the same fees as other officers for similar services.

shall deliver books, &c., to city auditor.

SEC. 136. Upon the creation of the office of city auditor, the clerk shall, upon demand, deliver to the incumbent of such office, when duly qualified, all the records, books, papers, vouchers and documents of every description, in his possession, pertaining to the duties of such auditor.

Corporation seal.

SEC. 137. The council shall cause to be provided for its clerk's office, a seal, in the center of which shall be the name of the corporation, and around the margin the words "City Clerk," or in case of an incorporated village the words "Corporation Clerk;" which seal shall be affixed to all transcripts, orders, certificates or other papers which it may be necessary or proper to authenticate under the provisions of this act, or of any ordinances of the corporation.

III.—The Auditor.

Powers and duties of auditor.

SEC. 138. The auditor shall have power to administer oaths, and take affidavits, and such other powers, and shall perform such duties, as may be prescribed by law or any ordinance of the corporation, not inconsistent with the constitution and laws of the state, and not incompatible with the nature of his office.

The same.

SEC. 139. He shall have charge of all books, records and papers connected with his office, and shall carefully keep and preserve the same in his office, and the same shall be subject to the inspection of all persons interested.

IV.—The Marshal.

The marshal—his deputies.

SEC. 140. The marshal shall be the principal ministerial officer of the corporation, and he shall have power to appoint one or more deputies, for whose official acts he shall be re-

sponsible, and by whom he may execute all writs, process and orders to him directed.

SEC. 141. He shall execute and return all writs and process to him directed by the mayor, and shall, by himself or deputy, attend on the sittings of said courts to execute the orders and process thereof, and to preserve order therein; and his jurisdiction and that of his deputies, in the execution of all such writs and process, and in criminal cases and in cases of a violation of the ordinances of the corporation, shall be coextensive with the county.

His duties.

SEC. 142. He shall suppress all riots, disturbances and breaches of the peace, and to that end may call upon the citizens to aid him; he shall arrest all disorderly persons in the corporation, and pursue and arrest any person fleeing from justice in any part of the state; he shall arrest any person in the act of committing any offense against the laws of the state or the ordinances of the corporation, and forthwith bring such person before the mayor, or other competent authority, for examination or trial; and he shall receive and execute any proper authority for the arrest and detention of criminals fleeing or escaping from other places or states.

The same.

SEC. 143. He shall have, in the discharge of his proper duties, like powers, be subject to like responsibilities, and shall receive the same fees as sheriffs and constables in similar cases, for services actually performed by himself or his deputies, and such additional compensation as the council may prescribe; but in no case shall he receive any fees or compensation for services rendered by any watchman or other officer, nor shall he receive for guarding, safe keeping or conducting into the mayor's or police court, any person arrested by himself or deputies, or by any other officer, a greater compensation than twenty cents.

Powers, responsibilities, fees, &c.

SEC. 144. All fees, costs, fines and penalties by him collected, shall immediately be paid over to the mayor, and he shall report to the council monthly the amount thereof, and from whence and for what purpose collected and when paid over.

Disposition of fines, &c.

V.—Chief of Police.

SEC. 145. In all corporations in which there is no marshal, the duties imposed on that officer by this act shall be performed by the chief of police.

Chief of police.

SEC. 146. He shall be under the direction of the mayor, and shall execute all process to him directed by the mayor or judge of the police court, and shall by himself, or some lieutenant of the police to be by him designated, attend on the sittings of said courts to execute the orders and process thereof, and preserve order therein.

His duties.

SEC. 147. He shall have the same powers, perform the same duties, and be subject to the same responsibilities as are imposed on the marshal in the preceding division of this chapter.

Powers, &c., same as marshal

SEC. 148. He shall receive for his compensation from the corporation, such sum, payable quarterly, as the council may

Compensation.

by ordinance prescribe, not exceeding fifteen hundred dollars per annum, and from the county, in state cases, not exceeding five hundred dollars per annum, to be allowed by the county commissioners.

Shall receive no

SEC. 149. In no case shall he, or the lieutenant or watchman who may be detailed by him to attend on the police court, demand or receive any perquisite, fee or reward other than is authorized by law.

Disposition of
fines, &c.

SEC. 150. All fines, penalties and costs collected by the chief of police, lieutenant or watchman, shall be paid over to the clerk of the police court, and the same fees shall be charged and collected by the chief of police from persons convicted, as the marshal is herein authorized to charge and collect for similar services.

VI.—The Treasurer.

Powers and du-
ties of treasurer.

SEC. 151. The treasurer, in addition to the ordinary and usual duties of such officer, shall have such powers and perform such duties as are prescribed in this act or may be required by any ordinance of the corporation, not inconsistent with this act and not incompatible with the nature of his office.

Further duties
of treasurer.

SEC. 152. He shall demand and receive from the county treasurer, all taxes levied and assessments made and certified to the county auditor by authority of the council, and by said auditor placed on the tax duplicate for collection, and from all persons authorized to collect or required to pay the same, all moneys accruing to the corporation from judgments, fines, penalties, forfeitures, licenses, and costs taxed in the mayor's and police courts, and all debts, of whatever kind, due the corporation, and disburse the same on the order of such person or persons as may be authorized by ordinance to issue orders for the same.

The same

SEC. 153. The treasurer shall settle and account with the council quarterly, and as much oftener as the council shall by resolution or ordinance require; and he shall report annually to the council, at the first regular meeting thereof, in April, the condition of the finances of the corporation and the amount received by him and the sources whence received, and the disbursements by him made and on what account, during the year preceding the first day of April, and such account shall exhibit the balance due on each particular fund which may have come into his hands during the year.

Compensation.

SEC. 154. The treasurer shall be allowed as compensation for the disbursement of all moneys, other than school funds, which shall come into his hands under the provisions of this act, such sum as the council may allow, not exceeding the following in any one year:

On the first five thousand dollars, two per centum.

On the next five thousand dollars, one and a half per centum.

On the next ten thousand dollars, one-half of one per centum.

And on all sums that may be disbursed by him in excess

of the above amounts, one-fifth of one per centum, payable out of any money in the corporation treasury not otherwise appropriated, and no other compensation shall be allowed corporation treasurers for services performed under this act.

SEC. 155. The county treasurer shall, on the first Monday of February and August in each year, pay over to the treasurer of the corporation all moneys received by him up to said dates, arising from taxes levied and assessments made belonging to the corporation.

Duty of county treasurer.

SEC. 156. In all corporations in which the county treasurer is by law made ex-officio the corporation treasurer, such county treasurer, if he has already entered upon the duties of his office, shall continue to act as such corporation treasurer until the expiration of his term of office; all moneys in the hands of such county treasurer acting ex-officio as corporation treasurer, shall, upon the termination of his office, be transferred to the corporation treasurer.

The same, as ex-officio corporation treasurer.

VII.—The Solicitor.

SEC. 157. The solicitor shall, whenever required so to do by resolution of the council, prosecute for and in behalf of the corporation all complaints, suits and controversies in which the corporation is a party, except cases before the police court where there is a prosecuting attorney for such court, and such other suits, matters and controversies as shall by resolution or ordinance be directed.

Duties of solicitor.

SEC. 158. He shall pay over to the treasurer all moneys which may come into his hands belonging to the corporation, or which may come into his hands by way of fines, forfeitures, costs or otherwise, and take the treasurer's duplicate receipts therefor, one of which he shall file with the clerk of the corporation, or in case there be an auditor, then with such auditor.

The same.

SEC. 159. He shall apply to a court of competent jurisdiction for an order or injunction to restrain the misapplication of the funds of the corporation, or the abuse of its corporate powers, or the execution or performance of any contract made in behalf of the corporation in contravention of the laws or ordinances governing the same, or which was procured by fraud or corruption.

The same.

SEC. 160. In case the solicitor shall fail, upon the request of any of the tax-payers thereof, to make the application provided for in the preceding section, it shall be lawful for such tax-payer to institute a suit in his own name on behalf of the corporation.

When tax-payer may institute suit.

SEC. 161. If the court hearing such case shall be satisfied that such tax-payer had good cause to believe that his allegations were well founded, or if the same are sufficient in law, it shall make such order as the equity and justice of the case shall demand; and in such case he shall be allowed his costs, including a reasonable compensation to his attorney.

Duty of the court.

SEC. 162. The solicitor shall make a report annually to the council at their first regular meeting in April, of the business of his office and the moneys by him collected during the year preceding the first day of April, and such other matters

Solicitor's report.

as he may think proper in order to promote the good government and welfare of the corporation.

His salary.

SEC. 163. He shall receive such stated salary, payable quarterly out the corporation treasury, and such fees or compensation for particular services, as the council may prescribe.

VIII.—Street Commissioner, Fire Engineer, Civil Engineer and Superintendent of Markets.

Duties of street commissioner, civil engineer and superintendent of market.

SEC. 164. The street commissioner, fire engineer, civil engineer, and superintendent of markets, shall each severally perform the duties prescribed by this act, and such other duties not incompatible with the nature of their office, as the council may by ordinance require.

Their compensation.

SEC. 165. They shall each receive such compensation for their services, by fees or salary, or both, as may be provided by ordinance.

CHAPTER XIII.

JURISDICTION AND POWERS OF POLICE COURTS.

SECTION

- 166. *Police Judge*—his powers.
- 167. His jurisdiction.
- 168. The police court.
- 169. Prosecutions, how brought.
- 170. Compensation of police judge.
- 171. Police court always open, &c.
- 172. Jurors in police court.
- 173. Rules of practice, &c.
- 174. Substitute for police judge.
- 175. His oath.
- 176. Record of proceedings.
- 177. Fees.
- 178. Fees of witnesses.
- 179. Writ of error to common pleas.
- 180. Return on such writ.

SECTION

- 181. What common pleas court may do.
- 182. *Clerk of Police Court*—his duties.
- 183. His oath and bond.
- 184. His salary, &c.
- 185. His powers.
- 186. Substitute for clerk.
- 187. Further duties of clerk.
- 188. Shall not be concerned as counsel.
- 189. Shall account for fines, &c.
- 190. Disposition of surplus fees.
- 191. *Prosecuting Attorney of Police Court*—duties.
- 192. His salary.
- 193. Substitute for prosecuting attorney.

I.—Police Judge.

Powers of police judge.

SEC. 166. The police judge shall have in all criminal cases the same power and jurisdiction that are or may be by law vested in justices of the peace of the county; he shall also have power to take acknowledgments of deeds and other instruments of writing; to administer oaths, and take and certify depositions.

His jurisdiction.

SEC. 167. He shall have jurisdiction of all violations of the ordinances of the city, and of all cases of petit larceny and of inferior offenses which do not require an indictment by a grand jury, committed within the limits of the city or within four miles thereof. The power to hear and determine such offenses shall extend to cases where the accused is entitled to a trial by jury, if a jury be waived.

The police court.

SEC. 168. He shall have power to hold a court, to be styled "The Police Court," which shall be a court of record; it shall have a seal to be provided by the city council, with the name of the state in the center, and the style of the court around the margin. He shall have power to issue process,

to preserve order and punish contempts; to summon and empanel jurors, and such further powers incident to a court of common pleas, as may be necessary for the exercise of the jurisdiction herein conferred.

SEC. 169. Prosecutions in said court for offenses against the laws of the state, shall be brought and conducted in the name of the state, and prosecutions for the violation of city ordinances shall be brought and conducted in the name of the city.

Prosecutions
how brought

SEC. 170. The judge of the police court shall receive no fees or perquisites whatever, but shall receive such annual compensation, to be paid quarterly out of the city treasury, not exceeding two thousand dollars, as the council may prescribe, and such further compensation payable out of the county treasury, as the county commissioners may deem proper; but in cities of the first class, having a population of one hundred thousand inhabitants, such judge shall receive not less than fifteen hundred dollars per annum from the city treasury, and not less than fifteen hundred dollars per annum from the county treasury; nothing in this section shall prohibit said judge from receiving the fees for taking acknowledgment of deeds, depositions and affidavits, allowed to justices of the peace for like services.

Compensation of
police judge.

SEC. 171. The police court shall always be open for business; but may adjourn from day to day or from time to time; and the mode in which business shall be brought before the court shall be fixed by ordinance of the city council or rule of the court.

Police court al-
ways open, &c.

SEC. 172. The jurors in said court shall have the qualifications of jurors in the court of common pleas, and shall be summoned and empaneled in accordance with an ordinance of the city council, or in case the council shall fail to pass such ordinance, in accordance with a rule of court, and said court shall have power to compel the attendance of witnesses, jurors and parties.

Jurors in police
court, &c.

SEC. 173. The judge shall adopt such rules of practice and procedure as will give all parties a proper statement of any charge against them, and a full opportunity of being heard; but shall at the same time dispatch the business with all convenient speed; and all rules of the court shall be written or printed, and posted in the room in which it holds its sittings.

Rules of prac-
tice, &c.

SEC. 174. In the absence, inability or disability of the judge, it shall be lawful for the mayor to select a reputable member of the bar, residing within the city, to hold said court, and for the time being such person shall have the jurisdiction and powers conferred upon judges of police courts, and shall be styled, "acting police judge," in which style he shall sign all process and records during the time he shall serve, and shall perform all other official acts pertaining to said office.

Substitute for
police judge.

SEC. 175. Before the person so appointed shall enter upon the duties of acting judge, he shall take an oath to support the constitution of the United States, the consti-

His oath

Record of proceedings.	tution and laws of the state of Ohio, the charter and ordinances of the city, and an oath of office.
Fees.	SEC. 176. In cases where the police court is required to recognize the defendant to appear before any other court, the proceedings and recognizance shall be recorded as is required of justices of the peace in like cases.
Fees of witnesses.	SEC. 177. The fees in said police court shall be the same in state cases as are or may be allowed by law to justices of the peace, or in the probate court in like cases; and in cases for the violation of ordinances, such fees not exceeding fees for services of a like nature in state prosecutions, as the council shall by ordinance prescribe.
Writ of error to common pleas.	SEC. 178. Witnesses in the police court shall be allowed the same fees in cases arising from a violation of the ordinances, as are allowed in like cases before justices of the peace, which shall be paid in the same manner; and in state cases the same fees, which shall be paid in the same manner as in like cases in the court of common pleas.
Return on such writ.	SEC. 179. Any final conviction or sentence of the police court, may be examined into by the court of common pleas on writ of error, which may be allowed by such court or judge thereof for sufficient cause, and proceedings may be stayed as may be deemed reasonable.
What common pleas court may do.	SEC. 180. The police court shall return on such writ of error all matters of record or on file touching the proceedings, or a transcript thereof, and any facts which may have been noted by the judge or certified in the nature of a bill of exceptions at the time of trial.
	SEC. 181. On such return the court of common pleas may make such order as right and justice may require, and may either discharge the party or set aside the conviction and order another trial, or dismiss the writ of error and order a proceeding; but no conviction or sentence of any police judge shall be set aside or disregarded for the want of any technical averment that any matter or thing is within his jurisdiction.

II.—Clerk of Police Court.

Duties of clerk of police court.	SEC. 182. The clerk of the police court shall perform like duties as the clerk of the court of common pleas in like cases.
His oath and bond.	SEC. 183. He shall, before entering upon the duties of his office, take an oath of office, and execute bonds, with sufficient surety, to the city and county commissioners of the county in which said court is situated, in such sums as the council of said city and the county commissioners of said county may prescribe, conditioned for the faithful performance of the duties of his office.
His salary.	SEC. 184. He shall receive for his services in city cases, a fixed salary, to be prescribed by ordinance of the council, and for state cases prosecuted in said court, such further allowance, not exceeding eight hundred dollars per annum, as the county commissioners of such county may deem proper.
His powers.	SEC. 185. He shall have power to administer oaths, and to appoint two or more deputies, to be approved by the council, who shall receive such reasonable compensation, not ex-

ceeding fifteen hundred dollars per annum, as the council shall prescribe.

SEC. 186. In case of temporary inability of the clerk, when no deputy shall have been appointed, the judge may appoint some competent person, who, upon giving bond and taking the oath prescribed, shall perform all the duties, and have all the powers imposed upon said clerk; and he shall be paid out of the city treasury, on the order of the council, at the same rate as the clerk is paid for similar services; but such appointment shall be valid only until the inability of the clerk is removed.

Substitute for clerk.

SEC. 187. The clerk shall file and preserve all informations, process, motions and papers of every description, used in said court, and keep a journal of all the doings of the court, which shall be read each day, and, if necessary, corrected and signed by the judge; and in all cases where final judgment is given, the journal entry of each case, with the papers filed, shall be deemed the record of that case.

Further duties of clerk.

SEC. 188. He shall not be concerned as counsel or agent in the prosecution or defense of any case before the court.

Shall not be concerned as counsel.

SEC. 189. He shall, on the first day of every month, or within three days thereafter, account, under oath, for all fines, penalties, fees and costs, imposed by the court in city cases, to the city auditor, and in state cases, to the county auditor, and shall pay into the city and county treasuries, respectively, the amount then received by him.

Shall account for fines, &c.

SEC. 190. If there be any surplus of such fees, collected for the city after payment of the expenses of the police court required to be paid by such city, such surplus shall be appropriated by the council for the benefit of the common schools of the city.

Disposition of surplus fees.

III.—Prosecuting Attorney of Police Court.

SEC. 191. It shall be the duty of the prosecuting attorney of the police court, to prosecute all city and state cases brought before said court, and he shall perform like duties as far as the same are applicable to such police courts, as are required by prosecuting attorneys of this state.

Duties of prosecuting attorney

SEC. 192. He shall receive for his services in city cases, such salary, to be paid out of the city treasury, as the council shall prescribe, and the county commissioners of any county in which there is or may be a police court established, shall allow him such further compensation, not to exceed eight hundred dollars per annum, as may be deemed right and proper, which shall be paid out of the county treasury.

His salary, &c.

SEC. 193. In case of the temporary inability of the prosecuting attorney of the police court, the judge shall appoint some competent member of the bar to perform the duties of the office, until such disability is removed, and no longer, and he shall be paid out of the city and county treasuries, a compensation proportionate to the time he may serve, and the amount so paid may, at the discretion of the judge, be deducted from the salary of the prosecuting attorney.

Substitute for prosecuting attorney.

CHAPTER XIV.

THE MAYOR'S COURT.

	SECTION	SECTION
	194. Juries in mayor's court.	197. Costs and fees.
	195. Talesmen.	198. Powers of mayors same as justices.
	196. Duties and compensation of jurors.	
Juries in mayor's court.	<p>SEC. 194. The council of any city or incorporated village, shall have power to provide, by ordinance, for the summoning and empaneling of juries by the mayor; such jurors shall have the qualifications of jurors in the court of common pleas, and may be empaneled to try such cases arising from violations of ordinances as may be prescribed by the council.</p>	
Talesman.	<p>SEC. 195. When any juror so summoned shall, upon challenge or inquiry, be found incompetent, he may be dismissed, and a talesman called by the marshal or officer attending the mayor's court at the time, and the pannel filled in the same manner as pannels are filled in the court of common pleas.</p>	
Duties and compensation of jurors.	<p>SEC. 196. Jurors summoned to serve in the mayor's court, shall perform like duties and be subject to like rules and penalties as jurors before justices of the peace; and witnesses subpoenaed to give testimony in said court, and jurors, shall receive the same compensation as witnesses before justices of the peace. In cases for the violation of ordinances, their fees shall be paid, on the certificate of the mayor, out of the corporation treasury, and in state cases, on like certificate, out of the county treasury.</p>	
Costs and fees.	<p>SEC. 197. The costs of the mayor and marshal, in all cases for the violation of ordinances, shall be fixed by ordinance, but in no case greater than the fees for similar services before justices of the peace; and their fees, including the fees of jurors and witnesses, shall, in case of conviction, be taxed against the party or parties convicted, and in case of acquittal, except the fees of mayor and marshal, against the corporation.</p>	
Powers of mayors same as justices.	<p>SEC. 198. The mayor shall have like power to punish contempts and compel the attendance of jurors and witnesses, and to establish rules for the examination and trial of all cases brought before him, as is or may be conferred upon justices of the peace.</p>	

CHAPTER XV.

GENERAL POWERS OF MUNICIPAL CORPORATIONS.

	SECTION
	199. General sanitary and other powers of municipal corporations.
General powers.	<p>SEC. 199. All cities and incorporated villages shall have the general powers hereinafter mentioned, and may provide by ordinance for the exercise of the same.</p>

1. To prevent riots, gambling, noise and disturbance, indecent or disorderly conduct or assemblages, preserve peace and good order, and to protect the property of the municipal corporation and its inhabitants. As to riots, &c.
2. To prevent injury or annoyance from anything dangerous, offensive or unhealthy, and to cause any nuisance to be abated. As to nuisances.
3. To suppress billiard tables, nine or ten pin alleys or tables, and ball alleys; and to authorize the destruction of all instruments or devices used for the purpose of gaming. As to billiard tables, &c.
4. To suppress and restrain disorderly houses, and houses of ill-fame, and provide for the punishment of all lewd and lascivious behavior in the streets and other public places. As to disorderly houses, &c.
5. To regulate, restrain and prohibit, ale, beer and porter houses or shops; and houses and places of notorious or habitual resort for tipping or intemperance. As to sale of fermented liquors.
6. To regulate taverns and other houses for public entertainment. Taverns, &c.
7. To regulate or prohibit all theatrical exhibitions and public shows, and all exhibitions of whatever name or nature for which money, or other reward, is in any manner demanded or received; but lectures on historic, literary or scientific subjects, shall not come within the provisions of this section. Theaters, &c.
8. To regulate or prohibit the sale of live domestic animals at public auction, on the streets, alleys, highways, or any public ground within the corporation. Sale of animals.
9. To regulate, license, or prohibit, the auctioneering of goods, wares and merchandize imported into the corporation for the purpose of being sold at auction. Auctioneering.
10. To regulate the use of all carts, drays, wagons, hackney-coaches, omnibuses, and every description of carriages which may be kept for hire, and all livery-stables. Uses of carriages, drays, &c.
11. To regulate and restrain the running at large, within the limits of the corporation, of cattle, horses, swine, sheep, goats, geese and other animals, and to impound and hold the same, and, on notice to the owners, to authorize the sale of the same, or any portion thereof, for the penalty imposed by any ordinance and the costs and expenses of the proceeding. Running at large of cattle, &c.
12. To prevent the running at large of dogs, and injuries and annoyances therefrom, and to authorize the destruction of the same when running at large contrary to the provisions of any ordinance to that effect. Dogs.
13. To prevent and punish fast driving or riding of animals, or fast driving or propelling of vehicles, through or on the public highways. Fast driving, &c.
14. To regulate the transportation and keeping of gunpowder and other combustibles and explosives, and provide or license magazines for the same. Gunpowder &c.
15. To regulate the transportation of articles through the streets, and prevent injuries to the streets from over loaded vehicles. Transportation through streets.
16. To regulate the weighing and measuring of hay, wood, coal, and all other articles exposed for sale. Hay, wood, coal, &c.
17. To guard against injuries by fire. Fire.

Streets, alleys,
&c.

18. To provide for the laying down of gas pipes, to lay off, establish, open, widen, straighten, extend, improve, keep in order and repair, and to light, streets, alleys, public grounds and buildings, wharves, landing places, bridges and market spaces, within the corporation, including any portion of any turnpike or plank road therein, surrendered to, or condemned by the corporation,

Canals, &c.

19. To construct, open, enlarge, excavate, improve, deepen, straighten or extend, any canal, ship channel, or water course, located in whole or in part within the corporation.

Cleaning streets,
&c.

20. To regulate the cleaning and sprinkling of streets, alleys and public grounds.

Sewers, &c.

21. To open, construct, keep in order and repair, sewers drains, and ditches.

Water closets.

22. To establish, repair and regulate, public water closets and privies.

Hospitals, &c.

23. To erect, establish, regulate and repair, pest houses and hospitals.

Board of Health.

24. To establish a board of health, and to invest it with such powers, and impose upon it such duties, as may be necessary to secure the inhabitants from the evils of contagious, malignant and infectious diseases.

Jails, &c.

25. To build jails, or other places of confinement, and to regulate the same.

Markets.

26. To erect market houses, and establish and regulate markets.

Buildings.

27. To regulate the erection of buildings and other structures, within the corporate limits.

Cemeteries.

28. To provide public cemeteries, and for the improvement and protection thereof, and to regulate the burial of the dead.

Police.

29. To organize and maintain a police department.

Fire department

30. To organize and maintain a fire department, erect necessary buildings therefor, and to purchase and hold all necessary hose, engines, carts, ladders, carriages, tools and implements therefor.

Water works.

31. To provide for a supply of water, by the construction of wells, pumps, cisterns, aqueducts, water pipes, reservoirs and water works, and for the protection thereof; to prevent unnecessary waste of water, and the pollution thereof.

Parks, &c.

32. To hold and improve public grounds and parks, and to provide for the protection and preservation of the same.

Appropriation of
private property.

33. To appropriate private property for the uses of the corporation.

Real estate.

34. To acquire, by purchase or otherwise, and hold, real estate, or any interest therein, and other property, for the uses of the corporation, and to sell or lease the same.

School houses.

35. To erect and maintain buildings for public schools.

Halls.

36. To erect and maintain public halls.

Libraries, &c.

37. To establish and maintain free public libraries and reading rooms; to purchase books, papers, maps and manuscripts therefor; and to receive donations and bequests of money or property for the same in trust, or otherwise. The council may appoint such trustees or officers, and confer upon them such authority as may be necessary to render any

library or reading-room so established of public utility. They may also pass necessary by-laws and regulations for the protection and government of the same.

38. To license and regulate ferries within the corporate limits. Ferries.

CHAPTER XVI.

VAGRANTS, CRIMINALS, AND SUSPICIOUS CHARACTERS.

SECTION

200. Public peace and morals.
201. Punishment for breaches of the peace, &c.

SECTION

202. Imprisonment therefor.
203. Regulation of labor.
204. Hospitals, &c.

SEC. 200. The council of any city or incorporated village shall have power to provide for the punishment of persons disturbing the good order and quiet of the village, by clamor and noise in the night season, by intoxication, drunkenness, fighting, using obscene or profane language in the streets and other public places, to the annoyance of its citizens, or otherwise violating the public peace by indecent and disorderly conduct or by lewd and lascivious behavior; and they shall have power, in like manner, to provide for the punishment of vagrants, common street beggars, common prostitutes, habitual disturbers of the peace, known pickpockets, gamblers, burglars and thieves, watch stuffers, ball-game players, persons who practice any trick, game or device with intent to swindle, persons who abuse their families, and suspicious persons who can not give reasonable account of themselves.

Public peace and morals.

SEC. 201. Such punishment may be either by imposing and collecting fines, or by imprisonment in the proper jail at hard labor, or both, at the discretion of the court; but no such person shall be fined for a single offense to exceed fifty dollars, and such imprisonment and hard labor shall, for the first offense, not exceed thirty days, for the second offense, ninety days, for the third offense, six months, and for the fourth or any further repetition of the offense, one year.

Punishment for breaches of the peace, &c.

SEC. 202. The council shall have power to provide that all such persons who shall refuse or neglect to pay the fine imposed on conviction of any such offense, and the costs of prosecution, shall be imprisoned and kept at hard labor, until, at the rate of seventy-five cents for each day's labor, exclusive of Sundays, they shall have earned an amount equal to such fine and costs.

Imprisonment therefor.

SEC. 203. The council shall have power to make suitable regulations to conduct such labor to the best advantage, and in a manner consistent with the age, sex, and health of the prisoners, and such labor may be done at the corporation prison, work-house or elsewhere, if within a suitable enclosure, and under the charge of such officers or other persons as the council may select.

Regulation of labor.

SEC. 204. The council may provide suitable hospitals for the reception and care of such prisoners as may be diseased or disabled, the same to be under such regulations and under the charge of such person as the council may direct.

Hospitals, &c.

CHAPTER XVII.

POLICE.

SECTION

205. Appointment of police, &c.
 206. Equal number in the several wards.
 207. Policemen's bonds.
 208. Officers of police.
 209. Organization of police.
 210. Duties and powers of policemen.

SECTION

211. Suspension of policemen for cause.
 212. Special policemen.
 213. Compensation of policemen.
 214. Exemption of certain cities from provisions of this act concerning police.

Appointment of
 police, &c

SEC. 205. The council of cities and incorporated villages shall have power to provide by ordinance for the appointment by the mayor, by and with the consent of the council, of such number of police and night watchmen as they may think necessary for the good government of the corporation, who shall hold their office for one year unless sooner removed.

Equal number in
 the several
 wards

SEC. 206. In corporations divided into wards, an equal number of police and night watchmen shall be provided for the several wards.

Policemen's
 bonds.

SEC. 207. The night watchmen and police shall, before entering upon their duties, give bond with good and sufficient surety to the satisfaction of the mayor, for the faithful performance of their duties.

Officers of police,
 &c

SEC. 208. The council shall also have power to provide by ordinance for the appointment of subordinate officers of the police and night watchmen, and to prescribe the number of such officers. They may also provide, in addition to the regular watch, for the appointment of a reserved watch, to consist of a suitable number of persons in each ward, when the corporation is divided into wards, to be called into duty in whole or in part, in such manner and on such occasions as the council may prescribe, and by the mayor, or the officers of the police under his direction, and in special cases, or in cases of emergency.

Organization of
 police.

SEC. 209. The police and night watchmen shall be organized by the council under the general superintendence of the mayor, marshal, chief of police, or other officers of the police, and the council shall prescribe their duties, and define their powers, in such manner as will most effectually preserve the peace of the corporation, secure the inhabitants thereof from personal violence, and their property from fire and unlawful depredations.

Duties and pow-
 ers of policemen.

SEC. 210. It shall be the duty of the police and night watchmen and the officers thereof, under the direction of the mayor, and in conformity with the ordinances of the corporation, to suppress all riots, disturbances and breaches of the peace; to pursue and arrest any person fleeing from justice, in any part of the state; to apprehend any and all persons in the act of committing any offense against the laws of the state, or the ordinances of the corporation, and forthwith bring such person or persons before the police court, or other competent authority, for examination; and at all times diligently and faithfully to enforce all such laws, ordinances and

regulations, for the preservation of good order and the public welfare, as the council may ordain, and for such purpose they shall have all the power of constables; they may, upon view, arrest any person or persons who may be guilty of a breach of the ordinances of the corporation, or of any crime against the laws of the state; and may, upon reasonable information, supported by affidavit, procure process for the arrest of any person or persons who may be charged with a breach of any of the ordinances of the corporation.

SEC. 211. The mayor shall have power to suspend any policeman or night watchman for neglect of duty, misconduct, or other sufficient cause, and may appoint other persons to fill the temporary vacancy caused thereby; and such action shall thereafter be taken as is provided in section one hundred and twenty-one.

Suspension of
policemen for
cause.

SEC. 212. The mayor, in cities of the first class, may appoint such persons, not exceeding eight in number, with the pay and powers of police in such city, as may be necessary to attend the sittings and execute the orders of the police court, and perform duty at the city prison.

Special police-
men.

SEC. 213. The council shall fix the compensation or fees the police men and night watchmen and the officers thereof shall receive for their services, and they shall not demand or receive any other fee, perquisite or reward.

Compensation
of policemen.

SEC. 214. The provisions of this act, in respect to police and night watchmen, shall not apply to cities governed by the following acts:

Exemption of
certain cities
from provisions
of this act con-
cerning police.

An act entitled "an act authorizing the appointment of metropolitan police commissioners in cities of the first class, with a population of less than one hundred thousand inhabitants at the last federal census," passed April 5, 1866.

Also, an act entitled "an act to amend 'an act authorizing the appointment of metropolitan police commissioners in cities of the first class, with a population less than one hundred thousand inhabitants at the last federal census,' passed April 5, 1866," passed April 2, 1868.

Also, an act entitled "an act to provide for the organization, regulation and more efficient government of the police in cities of the first class, which have been advanced to that grade between decennial periods," passed May 6, 1868.

CHAPTER XVIII.

CORPORATION PRISON.

SECTION

215. Prisons, station-houses, &c.
216. Sustenance, &c., for prisoners.
217. Provision therefor by council.

SECTION

218. Custody of prisoners where there is
no workhouse.

SEC. 215. The council of any city or incorporated village shall have power to erect, establish and maintain a prison

Prisons, station
houses, &c.

and one or more watch or station houses, as shall be necessary; and such prison, watch or station houses shall be under the control of the marshal, or chief of police, under such rules and regulations as the council may prescribe.

Sustenance, &c.
for prisoners.

SEC. 216. It shall be the duty of the marshal or chief of police to provide all persons confined in such prison, watch or station houses, with necessary food during such confinement, and to see that such places of confinement are kept clean and made comfortable for the inmates thereof.

Provision there-
for by council.

SEC. 217. The council shall provide, by ordinance, for sustaining all persons sentenced to or confined in such prison at the expense of the corporation; and on the presentation of bills for food, sustenance and necessary supplies to the proper officer, certified to by such person or persons as the council may designate, not exceeding forty cents a day, such officer shall audit the same under such rules and regulations as the council may prescribe, and draw his order on the treasurer of the corporation in favor of the officer presenting such bill.

Custody of
prisoners where
there is no work
house.

SEC. 218. In corporations in which there is no work house, the council may, by ordinance, provide for the keeping of persons convicted and sentenced to hard labor, during the term of their imprisonment, at such place or places within the corporation as the council may determine.

CHAPTER XIX.

HOUSES OF REFUGE AND CORRECTION.

SECTION

- 219. Houses of refuge and correction.
- 220. Directors of houses of refuge and correction.
- 221. Their appointment, terms of office, &c.
- 222. Election of president, clerk, &c.
- 223. Record of proceedings, &c.
- 224. Powers in erection of buildings, &c.
- 225. Male and female apartments to be separate.
- 226. Separate buildings for males and females.
- 227. Appointment of superintendent and subordinate officers.
- 228. Rules and regulations.
- 229. Rules, &c. to be approved by council.
- 230. How books shall be kept.
- 231. Quarterly statement to be made to council.
- 232. Accounts to be balanced and reported annually.
- 233. Superintendent to have control, &c.
- 234. His responsibility.
- 235. Deputy superintendent.
- 236. Notice of completion of building to be published.
- 237. Removal of officers for cause.
- 238. When infants may be received, &c.
- 239. Custody and confinement of infants.
- 240. When they may be put to labor.
- 241. Disposition of infants until of age.
- 242. Commitment to refuge on recommendation of grand jury.
- 243. Commitment to refuge by court in certain cases.
- 244. Infants entitled to private examination and trial.
- 245. Infants to be placed in refuge instead of jail.

SECTION

- 246. Disposition of infants when refuge is full.
- 247. Statement of age, residence, cause, &c., must be furnished.
- 248. What record of commitment shall contain.
- 249. Term of commitment, &c.
- 250. Employment of infants in refuge.
- 251. Board may bind them as apprentices.
- 252. Committee of indentures, &c.
- 253. When indenture to be cancelled.
- 254. When indentured infant may be reclaimed.
- 255. Arrest, &c., of fugitives from refuge or apprenticeship.
- 256. Disposition of stubborn and irclaimable infants.
- 257. Duty of sheriff to notify prosecuting attorney, &c.
- 258. Final disposition of such stubborn infant.
- 259. How expenses shall be paid.
- 260. How excess of expenses shall be raised.
- 261. What return to writ of habeas corpus shall contain.
- 262. Circumstances of commitment, how far examinable.
- 263. Application of aggrieved party for review of commitment.
- 264. When infant shall be delivered to applicant.
- 265. Applicant may bring action in court.
- 266. Costs of such action.
- 267. When real estate may be sold.
- 268. Deed, and proceeds of sale.
- 269. Action against directors, how brought.
- 270. This act not to affect refuges heretofore established.

SEC. 219. The council of any city or incorporated village shall have power to establish, erect and maintain houses of refuge and correction.

Houses of refuge
and correction.

SEC. 220. The management of houses of refuge and correction, established or which may hereafter be established, and the management and care of the inmates thereof, the erection and enlargement of any building as a house of refuge and correction, or any addition or additions thereto, repairs and furnishing thereof, erection of any work shops and furnishing the same with the necessary machinery and tools, and the cultivation and improvement of any grounds therewith connected, shall be vested in a board of five directors, to be called the "Board of Directors of the House of Refuge and Correction."

Directors of
houses of refuge
and correction.

SEC. 221. The said directors shall be freehold electors of the corporation; they shall be appointed by the mayor, with the consent of the council; and shall hold their office for the term of five years, except that at the first appointment one of the said directors shall be chosen to serve for one year, one for two years, one for three years, one for four years, and one for five years; and annually thereafter one director shall be appointed; and a majority of the directors shall constitute a quorum. They shall not receive any compensation for their services.

Their appointment,
term of
office, &c.

SEC. 222. Said board shall elect, annually, at the first regular meeting in May, one of their number as president; and, at the same meeting, it shall appoint a secretary and clerk, and such other officers as may be necessary, and fix the compensation for their services, subject to the approval of the council.

Election of
president, clerk,
&c.

SEC. 223. The said board shall keep a complete record of all its proceedings; and it shall be necessary to the validity of every contract it may authorize to be made, that the same has been assented to at a regular meeting, by a majority of all the members, and a minute thereof entered on the journal of its proceedings.

Record of pro-
ceedings, &c.

SEC. 224. In the erection of any building as a house of refuge and correction, or of any addition or additions thereto, or any enlargement thereof, and in the repair and furnishing the same, and in the erection of any shops and providing the same with machinery and tools, the said board shall have the same powers, be governed by the same regulations and perform the same duties, so far as applicable, as are prescribed for the government of trustees of hospitals in chapter twenty-one; and the power of the council in relation to the erection and repair of said buildings, and the conduct of the board, shall be the same, so far as applicable, as prescribed in said chapter, in relation to the erection and repair of buildings for hospital purposes.

Powers in
erection of
buildings, &c.

SEC. 225. In the erection of any such buildings, and in any addition or additions thereto, or any enlargement thereof, the said board shall have power to so construct the same that the male and female inmates shall be provided with separate departments and accommodations; and that the grounds therewith connected shall be so separated, by partition walls

Male and female
apartments to
be separate.

Separate build-
ings for males
and females.

or fences, that the males and females may be enabled to occupy separate portions thereof.

SEC. 226. Whenever, in the opinion of the board, it shall be deemed advisable to provide separate buildings for the accommodation of males and females, such buildings shall be erected at least one-fourth of a mile apart, and the grounds around each shall be inclosed by suitable walls or fences.

Appointment
of superintend-
ent and subor-
dinate officers.

SEC. 227. The said board shall have power to appoint a superintendent, deputy superintendent, and such other subordinate officers, guards and employes as may be necessary, and fix their compensation and prescribe their duties, and to make all such regulations for their management and government as they shall deem expedient.

Rules and regu-
lations.

SEC. 228. The said board shall have power to make, establish and enforce rules and regulations for its own government, and the government and control of such institution, its officers and inmates, and make contracts for supplies and the the labor of its inmates.

Rules, &c., to
be approved
by council

SEC. 229. No resolution or act of said board making any appointment or fixing the compensation of any appointee, and no appropriation of money for any purpose, other than the ordinary and necessary expenses and repairs of the institution, and no by-law, rule or regulation it may establish, shall be of any validity until approved by the council.

How books shall
be kept.

SEC. 230. The books of said institution shall be so kept as to clearly exhibit the true state and condition of the inmates, the number received and discharged, and for what cause committed, the number employed as servants or in cultivating the premises, the number employed in each branch of industry carried on, and the receipts from, and expenditures for and on account of each department of business, or for the improvement of the premises.

Quarterly state-
ment to be made
to council.

SEC. 231. Said board shall cause a quarterly statement to be made out, specifying minutely all receipts and expenditures, from whom and for what purpose received, and to whom and for what purpose paid, with proper vouchers for each item, and shall submit such statement, properly certified, to the council for examination and approval.

Accounts to be
balanced and
reported an-
nually.

SEC. 232. The accounts of said institution shall be annually closed and balanced on the first Monday of January in each year, and full reports of the preceding year shall then be made and submitted to the council, and shall be published in the official paper of the corporation, or in such other form as said council may direct; and the council may require such other and further reports and exhibits of the condition and management of such institution as to them shall seem necessary and proper.

Superintendent
to have control,
&c.

SEC. 233. The superintendent of said institution shall have the entire control and management of its affairs, subject to the laws and the ordinances of the corporation, and the rules and regulations adopted by the board for its government; and it shall be his duty to obey and carry out all written orders and instructions of the board not inconsistent with the laws, rules and regulations relating to the government of said institution.

SEC. 234. He shall be responsible for the manner in which said institution is managed and conducted, shall reside at the same, devote his time and attention to the proper business thereof, and shall visit and examine into the condition of every department thereof, and of each person confined therein, daily, or as often as good order or necessity may require, and he shall exercise a general supervision and direction in regard to all matters of discipline, police regulation and business of said institution.

His responsibility, &c.

SEC. 235. In the absence or inability of the superintendent, the deputy superintendent of said institution shall, so far as relates to the discipline thereof, perform the duties of the superintendent.

Deputy superintendent.

SEC. 236. When any house of refuge and correction has been erected, as is provided herein, and is so far complete as to insure the safe confinement and employment of the persons intended to be confined therein, the said board shall cause notice of that fact to be published in some newspaper of general circulation in the corporation and county.

Notice of completion of building to be published.

SEC. 237. The board may, for misconduct or willful neglect of duty, and upon sufficient proof thereof, remove any officer or employe of said institution, except the superintendent thereof, who shall be removable for the causes and in the manner provided for the removal of city officers, and any employe of the superintendent may be discharged at his discretion.

Removal of officers for cause.

SEC. 238. The board may, at their discretion, receive into such institution infants under the age of sixteen years, committed to their custody in either of the following modes, to wit:

When infants may be received into refuge.

1. Infants committed by any justice of the peace within the county, by the mayor of the corporation, the judge of the police or other municipal court, any judge of the court of common pleas of the county, the probate judge of the county, and in those counties in which there may be a superior court, by any judge of such superior court, on the complaint and due proof thereof by the parent, guardian, or next friend of such infant, that, by reason of incorrigible or vicious conduct, such infant has rendered his or her control beyond the power of such parent, guardian, or next friend, and made it manifestly requisite that, from regard to the future welfare of such infant, and for the protection of society, he or she should be placed under the guardianship of the board of directors of such house of refuge and correction.

2. Infants committed by the authorities aforesaid, where complaint and due proof have been made that such infant is a proper subject for the guardianship of the directors of such institution, in consequence of vagrancy, or of incorrigible or vicious conduct, and that from the moral depravity, or otherwise, of the parent or guardian, or next friend, in whose custody such infant may be, such parent, guardian, or next friend, is incapable or unwilling to exercise the proper care and discipline over such incorrigible or vicious infant.

3. Infants who are destitute of a suitable home and of

adequate means of obtaining an honest living, or who are in danger of being brought up to lead an idle and immoral life, may be committed to the guardianship of the directors of such institution, by the trustees of any township within the county in which such institution may be situated, or by the mother, when the father is dead, or has abandoned his family, or does not provide for their support, or who is an habitual drunkard.

Custody and confinement of infants.

SEC. 239. Any infant under the age of sixteen years, who shall be convicted of any offense, made punishable by imprisonment, under any ordinance of the city, or who shall be liable to be committed to prison under any such ordinance, may be confined in such house of refuge and correction under such rules and regulations as the directors may prescribe; and it shall be lawful for the directors of such institution to receive and take charge of any children who may be committed to their custody by the court of common pleas, or any judge, justice of the peace, or other officer, under any law of the state.

When infants may be put to hard labor.

SEC. 240. Any infant over the age of sixteen years, convicted of a violation of any ordinance, and liable to be punished therefor by imprisonment, or who may be liable to imprisonment for neglect or refusal to pay a fine imposed for the violation of any ordinance, may, in lieu thereof, be committed to the house of refuge and correction, and put to hard labor, in such manner as may be prescribed by ordinance of the council.

Disposition of infants until of age.

SEC. 241. Any infant under the age of sixteen years, who shall be liable to confinement in the jail in any county in which a house of refuge and correction may be situated, or in the penitentiary of the state from any such county, may, at the discretion of the court, or magistrate giving sentence, be placed in such institution until of legal age, under the exclusive control and guardianship of the directors of such institution.

Commitment to refuge on recommendation of grand jury.

SEC. 242. If any accusation of the commission of any crime shall be made against any infant under the age of sixteen years, before the grand jury of the county in which such house of refuge and correction may be situated, and the charge appears to be supported by evidence sufficient to put the accused upon a trial, the grand jurors may, in their discretion, instead of finding an indictment against the accused, return to the court that it appears to them that the accused is a suitable person to be committed to the guardianship of the directors of the house of refuge and correction, and the court shall thereupon order such commitment.

Commitment to refuge by court in certain cases.

SEC. 243. If any infant under the age of sixteen years shall be arraigned for trial in any court having criminal jurisdiction in any county in which a house of refuge and correction may be situated, on a charge of any violation of any criminal law in this state, or ordinance of the corporation, the judge may, with the consent of the accused, arrest, at any stage of the cause, any further proceedings upon the part of the prosecution, and commit the accused to the guardianship of the directors of such institution.

SEC. 244. All infants under the age of sixteen years, who may be accused of any offense punishable by imprisonment, in any county in which a house of refuge and correction may be situated, shall be entitled to a private examination and trial, to which only the parties shall be admitted, unless one of the parents, the guardian or other legal representative, demand a public trial, in which case all proceedings shall be in the usual form.

Infants entitled to private examination and trial.

SEC. 245. Any infant under the age of sixteen years, who may be committed, in any county in which a house of refuge and correction may be situated, for trial, or as a witness, shall be placed in such institution, subject to the order of the court making such commitment, and in no case in the county jail.

Infants to be placed in refuge instead of jail.

SEC. 246. If, at any time, any house of refuge and correction shall have as many infants under its charge as can be conveniently accommodated therein, or as many as the funds of such institution are adequate to maintain, the board shall not be required to receive other infants, but shall order their chief officer to return that fact to any magistrate, court or person authorized to commit, who shall have sent an infant to such institution; and thereupon the case of such infant shall be disposed of as if this chapter had not been enacted, and as if no proceedings had taken place under it.

Disposition of infants when refuge is full, &c.

SEC. 247. In all cases where an infant is committed to the instruction and discipline of a house of refuge and correction under the guardianship of the directors thereof, the person ordering such commitment shall, at the same time, furnish to the directors or officers of such institution a true statement, in writing, of the age of such infant, and the reason for such commitment; and until such statement is furnished, the directors or officers aforesaid may decline receiving such infant.

Statement of age, residence, cause, &c must be furnished.

SEC. 248. In all cases where the commitment is ordered by any official person whose proceedings are usually evidenced by a record, or where the occasion of the commitment is a criminal charge against the infant, no other record shall be made, unless demanded by the infant, or his parents, or guardian, than that, in substance, such infant (naming him), who, on a day therein named, was of the age of — years, having been brought before such court or officer, and the court or officer having ascertained by the testimony of the witnesses therein named that such infant was a suitable person to be committed to the discipline and instruction of the house of refuge and correction under the guardianship of the directors thereof, such infant was so committed, and delivered to the charge of such directors.

What record of commitment shall contain.

SEC. 249. No commitment of an infant to a house of refuge and correction shall be for a shorter period than till such infant shall be reformed or attain the age of majority, except in case of infants committed to await their trial, or as witnesses, and except in such case as the board may, by their general rules, provide; but any infant, by whomsoever committed, or for whatever cause committed, may at any time be discharged upon the order of the board, duly entered upon their minutes.

Term of commitment, &c.

Employment of
infants in refuge.

SEC. 250. The board shall have power to place infants committed to their care, during their minority, at such employment, for account of the institution or otherwise, and cause them to be instructed in such branches of useful knowledge, as may be suited to their years and capacities.

Board may bind
them as appren-
tices, &c.

SEC. 251. Said board shall have power, at discretion, to bind out the said infants committed to their care, with their consent, as apprentices during their minority, to such persons and at such places, to learn such proper trades and employments, as in their judgment will be most conducive to their reformation and amendment, and as will tend to the future benefit and advantage of such infants.

Committee of in-
dentures.

SEC. 252. The said board shall, for such purpose, have power to appoint a committee of one or more, of their number, with power to execute and deliver, on behalf of the board, indentures of apprenticeship for any infant in such institution whom they may deem a proper person for an apprenticeship; and such indentures shall have the like force and effect as other indentures of apprenticeship under the laws of Ohio, and the indentures shall be filed and kept in the office of such institution, and it shall not be necessary to file or record them in any other place or office.

When indenture
to be cancelled.

SEC. 253. In case any infant so apprenticed shall prove untrustworthy and unreformed, the board may, at their discretion, permit such infant to be returned to such house of refuge and correction, to be held in the same manner as before said apprenticeship, and may, thereupon, order the indentures for such infant to be cancelled.

When inden-
tured infant may
be reclaimed.

SEC. 254. If, in the opinion of the board, any infant apprenticed out by them shall have an unsuitable home, or if the person to whom said infant is indentured shall become unfit or incapable to properly raise or take care of such infant, the directors may, at their discretion, return such infant to the institution from which it was indentured.

Arrest, &c., of
fugitives from
refuge or appren-
ship.

SEC. 255. Any fugitive from a house of refuge and correction, or a fugitive from apprenticeship under indentures executed as above provided, may be arrested and returned to such institution by a sheriff or constable of any county in this state, or police officer of the corporation, or officer of such institution, on the written order of any two directors of such institution, directed to such officer or officers; and may be delivered to the custody of such officer of a house of refuge and correction, as the directors may name.

Disposition of
stubborn and ir-
reclaimable in-
fants.

SEC. 256. When any infant shall be convicted of any offense against the laws of this state, punishable with imprisonment in the penitentiary, or in the jail of the county where such house of refuge and correction may be situate, and shall, under existing laws, be sent to the house of refuge and correction, instead of the penitentiary or jail, and shall refuse to submit to the rules of said institution, and prove to be stubborn and irreclaimable, in the opinion of a majority of said board, such infant may, by their order, be delivered into the custody of the sheriff of said county, with a written statement of the cause of commitment, and of the conduct and character of such infant, as exhibited in said institution, which

statement shall be prepared and signed by the superintendent of the institution.

SEC. 257. It shall be the duty of the sheriff to receive such infant into his custody, and file said statement in the office of the clerk of the court of common pleas, or in the office of the clerk of the court in which such infant shall have been tried, and to notify the prosecuting attorney of the county thereof.

Duty of sheriff to notify prosecuting attorney.

SEC. 258. Thereupon, the prosecuting attorney shall cause such infant to be brought before the court of common pleas, or before the court in which such infant may have been tried, to receive the sentence which the court shall deem just, according to the law, for the offense of which such infant shall have been convicted, as aforesaid.

Final disposition of such stubborn infant.

SEC. 259. The expenses of maintaining infants committed to any house of refuge and correction, by a court or magistrate of the county in which such institution may be situated, or by the police or other court of the corporation, for offenses against any law of the state, or for trial, or as a witness, shall be paid by the county; the expenses of infants committed by township trustees shall be paid by the township, and of those committed by parents and guardians, shall be paid by them, unless in cases where the board shall otherwise determine, all which expenses shall be ascertained and fixed by the board.

How expenses shall be paid.

SEC. 260. The expense of maintaining and administering the affairs of houses of refuge and correction, over and above the receipts thereof, shall be audited and paid, from time to time, by the council of the corporation, and a tax for said expenses shall be levied and collected as a part of the ordinary expenses of the corporation.

How excess of expenses shall be raised.

SEC. 261. It shall be a sufficient return to any writ of habeas corpus, directed to any person or officer inquiring into the cause of the detention of any infant committed to a house of refuge and correction, that the infant named in the writ was, on a day therein named, committed to the guardianship of the directors of the house of refuge and correction in the city or incorporated village of——, (as the case may be,) by the person or officer who executed the commitment, naming him, until such infant should arrive at legal age, and that that period has not arrived.

What return to writ of habeas corpus shall contain.

SEC. 262. Where a commitment has, in fact, been executed by a person authorized by this chapter to execute it, the existence of the circumstances justifying its execution, shall not be otherwise examinable than in an action against the directors of such institution, as provided in this chapter.

Circumstances of commitment, how far examinable.

SEC. 263. If any parent, guardian, master to whom an infant has been apprenticed, any person occupying the position of parent, protector or guardian in fact, or any relative by blood or marriage, not further remote than first cousin to such infant, shall feel aggrieved by the commitment of any infant to the directors of a house of refuge and correction, by any person authorized by this act to commit such infant, he shall make a written application to the board at such time as

Application of aggrieved party for review of commitment.

When infant shall be delivered to applicant.

Applicant may bring action in court, &c.

Costs of such action.

When real estate may be sold, &c.

Deed, and proceeds of sale.

Action against directors, how brought.

This act not to affect refuges heretofore established.

the directors may, by rule or resolution, provide for hearing applications, not later than the next regular meeting of the board, to have the infant delivered to him, which application shall state the ground of the applicant's claim to the custody of such infant, and the reasons for claiming such custody.

SEC. 264. Within ten days after hearing such application, the directors shall decide; and if they shall be of opinion that the welfare of such infant will be promoted by granting the application, they shall make an order to that effect, otherwise they shall decline the application.

SEC. 265. The applicant may, if the application be declined, upon first giving security for the payment of all costs, commence an action in the court of common pleas of the county, or in counties in which there may be a superior court, in the superior court, for the recovery of the infant, against the directors of the house of refuge and correction; which action shall be conducted in all respects as actions under the code of civil procedure.

SEC. 266. The costs of such action shall be paid by the applicant, unless the court shall certify, in the journal entry of the judgment, that the refusal of the directors to grant the application of the plaintiff was plainly unreasonable, or the original commitment manifestly improper and unnecessary.

SEC. 267. The directors of any house of refuge and correction, shall have power to negotiate for the sale of any real estate owned or held by donation or purchase, or either, for the use and benefit of such house of refuge and correction, when such real estate shall not be necessary for the accommodation of the inmates of such institution; and upon the completion of such negotiations, and their approval by the council, the directors shall present to the council the terms and conditions of the sale agreed upon.

SEC. 268. The council shall, thereupon, order the execution of a deed or deeds, for such real estate, to the parties named by the directors, in conformity to the terms agreed upon; and the proceeds of such sale or sales, shall be placed in the corporation treasury to the credit of the house of refuge and correction fund, and be held and disbursed as other funds are held and disbursed for such institution.

SEC. 269. Actions may be brought by and against the directors of the house of refuge and correction, before any court of competent jurisdiction; and process may be served by leaving a copy of the writ with any director, or at the office of such institution, with any officer thereof.

SEC. 270. Any house of refuge and correction heretofore established and governed under the provisions of an act entitled "an act to authorize the establishment of houses of refuge," passed April 16, 1857, shall continue to be governed, in all respects under said act, as though this act had not been passed.

CHAPTER XX.

WORK-HOUSES.

SECTION

271. Establishment and government of work-houses.

272. Direction and management thereof.

273. Appointment and term of office of directors.

274. Powers and duties of the board.

275. Commitment of violators of law.

276. Confinement and labor.

SECTION

277. Prompt commitment, and fees.

278. Discharge, and record thereof.

279. Punishment for escape, or attempt to escape.

280. Excess of expenses, how raised.

281. Officers to have police powers.

282. Infants received, where there is no house of refuge.

SEC. 271. The council of any city or incorporated village shall have power to establish, erect and maintain a work-house, and such work-house, and any work-house heretofore established, shall be governed by the provisions of this chapter.

Establishment
and government
of work-houses.

SEC. 272. The direction, management and control of any work-house, and the maintenance and care of the convicts therein, shall be vested in a board of five directors, who shall be called "The Board of Work-house Directors;" and said directors shall be freehold electors of the corporation, and serve without compensation.

Direction and
management
thereof.

SEC. 273. Said directors shall be appointed by the mayor, with the consent of the council, and shall hold their office for five years, except at the first appointment one shall be appointed to serve for one year, one for two years, one for three years, one for four years, and one for five years, and thereafter one shall be appointed annually.

Appointment
and term of office
of directors.

SEC. 274. The said board shall have the same powers, perform the same duties and be governed by the same regulations, so far as applicable, in the maintaining, erecting or enlarging any buildings for work-house purposes, or of any addition or additions thereto, or of the shops and grounds therewith connected, and of the management of the affairs thereof and care of the convicts therein, as are conferred upon and required of the board of directors of houses of refuge and correction, as provided in chapter nineteen; and the powers and duties of the council in respect to such board shall be the same, so far as applicable, as are provided in said chapter.

Powers and du-
ties of the board

SEC. 275. As soon as any work house shall be established and notice thereof published, as required in chapter nineteen, in respect to houses of refuge and correction, it shall thereafter be the duty of any court, magistrate or mayor, in the county where such work-house is established, authorized by law to sentence or commit to the county jail or corporation prison, any person over the age of sixteen years, convicted of a violation of any of the laws of this state or of the ordinances of the corporation, to sentence such person to imprisonment in such work-house.

Commitment of
violators of law

SEC. 276. Any person so sentenced shall be received into such work-house, and shall be there kept and confined at labor, and shall be subject to the rules, regulations and discipline thereof until the expiration of such sentence, when such party shall be discharged.

Confinement and
labor.

Prompt commitment, and fees.

SEC. 277. It shall be the duty of all officers having the execution of the final sentence of any court, magistrate or mayor, sentencing convicted persons to such work-house, to cause such convicts to be conveyed to the same as soon as practicable after the sentence is pronounced; and all officers shall be paid the fees therefor allowed by law for similar services in other cases, such fees to be paid, when the sentence is by the court, out of the county treasury, and when by the magistrate, out of the township treasury.

Discharge, and record thereof.

SEC. 278. The said board shall have power to discharge, for good and sufficient cause, any person committed to such work-house; but a record of all such discharges shall be kept and reported to the council in the annual report of the board, giving a brief statement of the reasons therefor.

Punishment for escape, or attempt to escape.

SEC. 279. Any person lawfully committed to said work-house, who shall escape therefrom, or break the same with intent to escape therefrom, or who shall attempt by force or violence, or in any other way, to escape from said work-house, whether such escape be effected or not, shall, upon conviction thereof, before the police court or court of common pleas for the proper county, be punished by confinement in said work-house, for a term not exceeding double the term for which such person was so sentenced, to commence from and after the expiration of his or her former sentence.

Excess of expenses, how raised.

SEC. 280. The expense of maintaining and administering the affairs of said work-house, over and above all receipts for the labor of persons confined therein, shall be audited and paid, from time to time, by the council of the corporation, and a tax for said expenses shall be levied and collected, as a part of the ordinary expenses of the corporation.

Officers to have police powers.

SEC. 281. The superintendent, assistant superintendent and guards of said work-house, shall have such powers of policemen, as may be necessary for the proper performance of the duties of their position.

Infants received, where there is no house of refuge.

SEC. 282. The council of any corporation owning a work-house, but not owning a house of refuge and correction, shall have power to provide for receiving into such work-house, infants in the manner prescribed in chapter nineteen; and the board of directors of such work-house shall have the power to make such rules and regulations, in regard to the admission of such infants and their management, as are provided in said chapter for the government and management of the inmates of houses of refuge and correction.

CHAPTER XXI.

HOSPITALS.

SECTION

283. Board of hospital commissioners.
 284. Who shall compose the board.
 285. Their term of office.
 286. Their powers, compensation of appointees, &c.
 287. Regular meetings, and record thereof.
 288. No expenditure without authority of board; no member to be interested, &c.
 289. Plans, specifications, &c.

SECTION

290. Terms of contracts, &c.
 291. Contracts to be advertised, and given to lowest bidder.
 292. Bids to be accompanied by bond, &c.
 293. Contract with lowest bidder.
 294. Bids to be sealed, endorsed, &c.
 295. Board to have management and control of hospitals.
 296. Council may enter into agreement with any corporation, &c.
 297. Applicability to existing hospitals.

SEC. 283. Whenever the council of any city or incorporated village shall enter upon and take possession of any grounds purchased, appropriated, or otherwise obtained for hospital purposes, and shall, by resolution or ordinance, determine to erect thereon or rebuild a hospital, the erection and repair thereof, or any addition or additions thereto, and the management, direction and control of the same, shall be vested in a board of five commissioners, to be called the Board of Hospital Commissioners of such corporation.

Board of hospital commissioners.

SEC. 284. Such board shall consist of the mayor of the corporation, who shall, by virtue of his office, be the president of the board, and four trustees, to be appointed by the mayor with the consent of the council, who shall be resident freehold electors of the corporation, and such commissioners shall not receive any compensation for their services.

Who shall compose the board.

SEC. 285. The term of office of the appointed members of said board, shall be four years, but the members first appointed shall hold their office, respectively, as shall be determined by lot, at the first meeting of said board, for the period of one, two, three and four years, and thereafter one member shall be appointed each year for the full term of four years, and a majority of said board shall constitute a quorum.

Their term of office.

SEC. 286. Such board shall have power to appoint a clerk, an architect and a superintendent, and other necessary employes, and fix their compensation, and adopt a suitable plan for such hospital, and make all contracts for the erection and furnishing the same; but the salary of such appointees, and the plan of such hospital, before any contract for the erection of the same is entered into, shall be submitted to and approved by the council.

Their powers, compensation of appointees, &c.

SEC. 287. The said board shall hold regular meetings at such time and place as may be agreed upon, and shall cause to be kept, a full record of all their proceedings; and no contract entered into by them, shall be valid until assented to at a regular meeting of the board, and concurred in by a majority of all the members thereof, and such assent be entered on the minutes of their proceedings.

Regular meetings, and record thereof.

SEC. 288. No money shall be paid for the erection, rebuilding or repair of any hospital, or of any addition or additions thereto, or for supplies therefor, unless first authorized by said board, and upon the warrant of the proper officer of

No expenditure without authority of board; no member to be interested, &c.

the corporation, and no member of said board shall be interested, directly or indirectly, in any contract concerning said institution.

Plans, specifications, &c.

SEC. 289. It shall be the duty of said board, before entering, into any contract for the erection of any hospital building, to cause plans, specifications, detailed drawings and forms of bids to be prepared; and when adopted by them they may, at their discretion, cause the said plans and drawings to be lithographed, and the specifications and forms of bids, and a form of contract and bond, to be prepared by the attorney of the corporation, and have the same printed for distribution among the bidders.

Terms of contracts, &c.

SEC. 290. All contracts shall be made in the name of the corporation, and it shall be stipulated therein that the contractors will not execute any extra work, or make any modifications or alterations of the work mentioned in the specifications and plans, unless ordered in writing by the board; and that they will not claim any pay for the same unless such written order is given, and the extra price of compensation fixed and agreed upon; and copies of the said plans and drawings, attested by the contractor, and the original bids, specifications and contracts, shall be deposited in the office of the clerk of the corporation.

Contracts to be advertised, and given to lowest bidder.

SEC. 291. The said board shall not enter into any contract for work or materials, except as relates to procuring plans, drawings, specifications and forms of bids, without first causing thirty days notice to be given in one or more newspapers of general circulation in the corporation, that sealed proposals will be received for doing the work or furnishing the materials; and they shall enter into contract with the lowest bidder, for the whole or any part of the work, upon his giving bond to the corporation, with security to be approved by the board, that he will perform such work or furnish the materials in accordance with his contract.

Bids to be accompanied by bond, &c.

SEC. 292. All bids shall be accompanied with a bond, signed by sufficient sureties for the acceptance of the contract, if awarded by the board, to fully secure any amount of difference between the amount of such bid and the next higher bid, and such amount shall be collected by the board and paid into the hospital fund in case of refusal by the bidder to enter into contract according to his bid, within such reasonable time as said board may determine.

Contract with lowest bidder.

SEC. 293. The board shall enter into contract with the lowest responsible bidder upon his giving bond to the corporation, with such surety as the said board shall approve, that he will perform such work and furnish materials in accordance with his contract; and on failure of such bidder, within a reasonable time, to be fixed by said board, to enter into bond with the surety before provided, then a contract may be made with the next lowest responsible bidder, and so on, until a contract is completed by the contractor giving bond as aforesaid.

Bids to be sealed, enclosed, &c.

SEC. 294. All bids shall be inclosed in a sealed envelope and deposited with the clerk of the board, and such sealed

envelope shall have endorsed thereon the nature of the same, and all bids shall be opened at a regular meeting of the board.

SEC. 295. The said board shall have the entire management and control of such hospital when the same has been completed and ready for use, and of the furnishing thereof, subject to the ordinances of the council, and shall establish such rules for its government and the admission of persons to its privileges, as they may deem expedient; and it shall also have power to employ a superintendent, steward, physicians, nurses, and such other employes as they may deem necessary, and fix the compensation of all persons so employed, subject to the approval of the council.

Board to have management and control of hospital, &c.

SEC. 296. The council may enter into an agreement with the corporation or association, organized for charitable purposes in such municipal corporation, for the erection and management of a hospital for the sick and disabled, and for a permanent interest therein, to such extent and upon such terms and conditions as may be agreed upon between the council and such corporation or association; and the council shall provide for the payment of the amount agreed upon, for any interest so acquired, either in one payment or installments, or so much, from year to year, as the parties may stipulate.

Council may enter into agreement with any corporation, &c.

SEC. 297. The provisions of this chapter shall, so far as applicable, govern hospitals heretofore established and erected.

Applicability to existing hospitals.

CHAPTER XXII.

INFIRMARIES.

SECTION

298. Board of infirmary directors.
299. Their election, term, and compensation.
300. To be governed by regulations applicable to hospitals.

SECTION

301. Their care for the inmates, separation of sexes, &c.
302. Overseers of the poor to be appointed.

SEC. 298. The management of affairs of all corporation infirmaries now existing, or which may hereafter be established, and the care of the inmates thereof; the erection and enlargement of all infirmary buildings, and of all additions thereto; and the repair and furnishing thereof, and improvement of the grounds therewith connected; and the granting of outdoor relief to the poor, shall be vested in a board of three directors, which shall be called "The Board of Infirmary Directors."

Board of infirmary directors.

SEC. 299. The said directors shall be electors and be elected by the qualified voters of the corporation, and shall hold their office for three years, except that at the first election one of the said directors shall be chosen to serve for one year, one for two years, and one for three years, and thereafter one shall be elected annually. They shall not receive any compensation for their services; provided, that in cities of the

Their election, term and compensation.

first class having a population of over one hundred thousand inhabitants, such directors shall receive such compensation as the city council may by ordinance provide.

To be governed
by regulations
applicable to
hospitals.

SEC. 300. In the management of any infirmary, in the care and treatment of the inmates thereof, in the erection, enlargement or repair of any building for infirmary purposes, or of any addition or additions thereto, the said directors shall have the same powers, be governed by the same regulations, and perform the same duties, so far as applicable, as are vested in and imposed on the commissioners of hospitals, as provided in chapter twenty-one; and the power of the council in relation to such infirmaries, and the conduct of the directors thereof, shall be the same, so far as applicable, as provided in said chapter in relation to hospitals.

Their care for
the inmates,
separation of
sexes, &c.

SEC. 301. The said directors shall further see that the inmates of such infirmary are comfortably provided for and kindly treated, and they may, whenever deemed necessary, provide for the care and support of the males and females in separate buildings, or in separate departments of the same building.

Overseers of the
poor to be ap-
pointed.

SEC. 302. The council shall provide, by ordinance, for the appointment by the mayor, subject to the approval of the council, of such number of persons as may be deemed necessary, not to exceed one in each ward, to act as overseers of the poor, and shall prescribe the duties of such persons in relation to the care of the poor, and their removal when necessary, to the infirmary, but such persons shall not receive any compensation for their services.

CHAPTER XXIII.

BOARD OF HEALTH.

SECTION

- 303. Board of health.
- 304. Term of office of members.
- 305. May appoint health officer, clerk, &c.
- 306. Powers and duties of board.
- 307. May restrain persons infected, &c.
- 308. Punishment of infected person for escaping, &c.
- 309. Regulations to secure public health.
- 310. Duties as to brothels.
- 311. Disposition of minor prostitutes.
- 312. Where female shall be treated as a vagrant.
- 313. Treatment of diseased female; expense thereof.
- 314. Suit for recovery of such expense.
- 315. Nuisances to be abated.

SECTION

- 316. Temporary suspension of order of abatement.
- 317. Modification or re-affirmation of order.
- 318. Sanitary police to be assigned.
- 319. When such police shall be dismissed.
- 320. Vaccination to be encouraged and provided for.
- 321. Sanitary report; its contents, &c.
- 322. Penalty for violation of order of board of health.
- 323. Violation by a corporation.
- 324. Prosecutions, how instituted.
- 325. Provision for expenses of board of health.

Board of health.

SEC. 303. Whenever the council of any city or incorporated village shall establish a board of health, such board shall be composed of the mayor, who shall be president by virtue of his office, and six members, to be appointed by the council, who shall serve without compensation, and a majority of whom shall be a quorum.

SEC. 304. The term of office of the members of such board shall be three years from the date of appointment, except that those first appointed shall be classified as follows: Two to serve for three years, two for two years, and two for one year, and thereafter two shall be appointed annually.

Term of office of
members

SEC. 305. Such board shall have power to appoint a health officer, a clerk, as many ward or district physicians as they may deem necessary for the care of the sick poor, and such other persons as may be in need, and to define their duties and salaries; and all such appointees shall serve during the pleasure of the board.

May appoint
health officer,
clerk, &c.

SEC. 306. The council may grant such board power to abate and remove all nuisances in the corporation, and assess the costs and expense of the same upon the property situate therein; which assessment, when duly certified by the president of the board to the county auditor, shall become a lien, to be collected the same as any other tax in favor of the corporation, and to compel the proprietors or owners, agents or assignees, occupants or tenants of the lot or property, house or building, upon, or in which any nuisance may be, to abate and remove the same; to regulate the construction and arrangement of all water-closets and privy-vaults, and the emptying and cleaning of such vaults; to create a complete and accurate system of registration of births, deaths and interments, occurring in or near such corporation, for purposes of legal and geneological investigations, and to furnish facts for statistical, scientific, and particularly for sanitary inquiries; and when complaint is made, or a reasonable belief exists that an infectious or contagious disease prevails in any locality or house, to visit such locality or house, make all necessary investigation by inspection, and on discovering that such infectious or contagious diseases exist, to send the person or persons so diseased to the pest-house or hospital.

Powers and du-
ties of board.

SEC. 307. When any person is found afflicted with infectious or contagious disease, and is removed to a pest-house or hospital, the board of health is empowered to use all necessary means to restrain such patient of his or her liberty until the danger of infection or contagion from said disease shall have ceased.

May restrain
persons infected,
&c.

SEC. 308. If any person so removed to any pest-house or hospital, shall willfully leave or escape therefrom before the physician of such pest-house or hospital shall give a certificate of restored health, the person so offending shall, upon conviction thereof before the mayor or police judge, be fined in any sum not less than five nor more than fifty dollars, or be imprisoned not less than one nor more than ten days, as the mayor or judge may determine.

Punishment of
infected person
for escaping, &c.

SEC. 309. The council may grant power to such board to make and pass all such orders and regulations as they shall, from time to time, deem necessary and proper for the public health and for the prevention of diseases; and such orders and regulations, when adopted, shall have all the force and effect of ordinances of such corporation.

Regulations to
secure public
health

SEC. 310. The board of health in cities of the first class, and, whenever required by resolution of the council, in cities

Duties as to
brothels, &c.

of the second class, are authorized and directed to enter brothels and houses of assignation, and make enumerations, as often as they may deem necessary, of the female inmates therein, and make a record of the same, and of the age of such female inmates, in a book to be kept in the office of said board of health, to be open to the inspection of the members of the board, the police and others.

Disposition of
minor prosti-
tutes.

SEC. 311. When any female under the age of eighteen years, or believed to be under that age, is found in such brothel or house of assignation, it shall be the duty of the board of health to return such female to her home, if she have any, and if such female have no home, then she shall be consigned to the house of refuge and correction of the corporation, or such benevolent association established for the reformation of abandoned females, as the board of health may select.

When female
shall be treated
as a vagrant.

SEC. 312. No female shall be consigned to a house of refuge and correction, or benevolent institution, against her will; but in case she declines the care and protection tendered her, it shall be the duty of the board to turn said female over to the mayor or police court to be tried as a vagrant.

Treatment of
diseased female;
expense thereof.

SEC. 313. Whenever any female is found in any house of ill-fame or assignation, affected with contagious or infectious disease, and is removed to, or if such person shall apply for, admission to, any hospital or pest-house for treatment, the costs of such removal, and the expense of boarding and washing, while in such hospital or pest-house, shall be paid by the proprietor or proprietors of the house of ill-fame or assignation from which such patient was removed, or in which she was last an inmate; and such payment shall be made before such patient is discharged from such hospital or pest-house; and such expense of boarding, washing and medical attendance, shall be a lien upon the house and premises in which such female shall have been so found, which lien may be enforced as other liens for the security of money.

Suit for recovery
of such expense.

SEC. 314. If the proprietor or proprietors of such house of ill-fame or assignation shall fail or refuse to pay such expense, legal proceedings shall be immediately instituted against such proprietor or proprietors of such house of ill-fame or assignation, and such patient shall be held as a witness in the case.

Nuisances to be
abated.

SEC. 315. Whenever any building, erection, excavation, premises, business, pursuit, matter or thing, or the sewerage, drainage or ventilation thereof, in the opinion of said board of health, whether in whole or in part, be in a condition or in effect dangerous to life or health, the said board may declare the same, to the extent it may specify, a public nuisance, or dangerous to life and health; and the said board may order the same to be removed, abated, suspended, altered, or otherwise improved or purified, as said order shall specify, and shall cause said order, before its execution, to be served on the agent, owner, occupant or tenant, or such of them as are in the corporation and can be found.

Temporary sus-
pension of order
or abatement.

SEC. 316. If any party so served shall, before the execution of the order is commenced, apply to said board to have said order or its execution stayed or modified, it shall be the

duty of the board to temporarily suspend or modify said order, and to give such party or parties, as the case, in the opinion of the board, may require, a reasonable and fair opportunity to be heard before said board, and to present proofs and facts against said declaration and the execution of said order, or in favor of its modification.

SEC. 317. The board shall enter upon its minutes such facts and proofs as it may receive, and its proceedings on such hearing, and thereafter may rescind, modify or re-affirm its said declaration and order, and require execution of said original, or of a new or modified order to be made, in such form and effect as it may finally determine.

Modification or re-affirmation of order.

SEC. 318. The mayor shall have power, and it shall be his duty to detail a portion of the regular police force of the corporation for sanitary duty, or to make new appointments for that purpose, whenever in the opinion of the board the public health and sanitary condition of the corporation may require. And such policemen, when so detailed, or when appointed, shall be known as the "Sanitary Police;" the number comprising the said sanitary police to be determined by the board of health, according to the exigencies of the case; and said sanitary police shall be subject to the exclusive direction and control of said board for the enforcement of proper sanitary measures, and for the promotion of the public health.

Sanitary police to be assigned.

SEC. 319. Whenever, in the opinion of the board of health, the services of the sanitary police are no longer required, they shall, on recommendation of the board of health, be returned to duty as regular policemen, or be dismissed, as the mayor may direct.

When such police shall be dismissed.

SEC. 320. Said board may take measures and supply agents, and afford inducements and facilities for gratuitous vaccination and disinfection; and may afford medical relief to and among the poor of the corporation, as in its opinion the protection of the public health may require; and during the prevalence of any epidemic disease, may provide temporary hospitals for such purposes.

Vaccination to be encouraged and provided for.

SEC. 321. It shall be the duty of said board, on or before the first Monday of March in each year, to make a report, in writing, to the council of the corporation, upon the sanitary condition and prospects thereof; and such report shall set forth generally the statistics of deaths, the action of said board and of its officers and agents, and the names thereof for the past year; and may contain other useful information, and shall suggest any further legislative action deemed proper for the better protection of life and health.

Sanitary report; its contents, &c.

SEC. 322. Any person violating any provision of this chapter, or any order of the board of health made in pursuance thereof, or obstructing or interfering with the execution of any such order, or wilfully and illegally omitting to obey any such order, shall, on conviction, be fined in any sum not exceeding one hundred dollars, or imprisoned for any time not exceeding ninety days, or both, at the discretion of the court; but no person shall be imprisoned under this section for the first offense.

Penalty for violation of order of board of health.

Violation by a corporation.

SEC. 323. If such violation, obstruction, interference or omission be by a corporation, such corporation shall forfeit and pay to the proper city or village, any sum not exceeding one hundred dollars, at the discretion of the court, to be collected in civil action brought in the name of such city or village; and any officer of such corporation consenting thereto, shall be subject to imprisonment as above provided.

Prosecutions, how instituted.

SEC. 324. Prosecutions and the civil action provided for in section three hundred and twenty-three under this chapter, shall be instituted before any tribunal within the municipal corporation having jurisdiction thereof.

Provision for expenses of board of health.

SEC. 325. Where expenses shall be incurred by the board of health, under the provisions of this act, it shall be the duty of the council, upon application and certificate from said board of health, to pass the necessary appropriating ordinances to pay the expenses so incurred and certified.

CHAPTER XXIV.

FIRE DEPARTMENT.

SECTION

326. Council shall have power to establish fire department.
327. To purchase fire-engines, &c.
328. To erect necessary buildings, &c.
329. To regulate the erection of structures, &c.

SECTION

330. To invest fire engineer with power, &c.
331. Engineer may administer oaths, &c.
332. His compensation.
333. Council may prohibit erection of wooden buildings, &c.

Council shall have power to establish fire department.

SEC. 326. The council of any city or incorporated village shall have power to establish all necessary regulations to guard against the occurrence of fires, and protect the property and lives of the citizens against damage and accidents resulting therefrom; and for this purpose to establish and maintain a fire department, and provide for the establishment and organization of fire engine and hose companies, and provide such by-laws and regulations for the government of such companies as may be deemed necessary and proper.

To purchase fire engines, &c.

SEC. 327. The council shall also have power to purchase for its own use, or for the use of such companies, all necessary fire engines (either steam or hand), hose carriages and hose, and all such other apparatus and instruments as shall be deemed necessary to the extinguishment of fires, and to establish lines of fire alarm telegraph within the limits of the corporation.

To erect necessary buildings, &c.

SEC. 328. The council shall also have power to provide or erect all necessary and suitable buildings containing rooms for fire engines, hose carriages, fire apparatus and instruments, and for the meetings of the fire and hose companies.

To regulate the erection of structures, &c.

SEC. 329. The council shall have power to regulate the erection of houses and business structures, and, on the petition of the owners of not less than two-thirds of the ground included in any square, to prohibit the erection on any such square of any building, or of any addition to any building,

more than ten feet high, unless the outer walls be made of brick and mortar, or of stone and mortar, or of iron, or stone or brick and mortar, and to provide for the removal of any buildings or additions erected contrary to such prohibition.

SEC. 330. The council shall have power to invest the fire engineer, or any other officer of the fire or police department, with the power, and impose on him the duty, to be present at all fires, investigate the cause thereof, examine witnesses and papers, and compel the appearance and production of the same, and to do and perform all such other acts as may be necessary to the effective discharge of such duties.

To invest fire engineer with power, &c

SEC. 331. Such officer shall have power to administer oaths, make arrests, and enter any building for the purpose of examination, which, in his opinion, is in danger from fire; and he shall report his proceedings to the council at such times as may be required.

Engineer, &c., may administer oaths, &c.

SEC. 332. For his services herein specified, such fire engineer or other officer shall receive such compensation as the council may prescribe.

His compensation.

SEC. 333. In all cities of the first class, the council shall have power to prohibit, within such limits as may be deemed proper, the erection of any building, unless the outer walls thereof be constructed of iron, brick and mortar, or stone and brick and mortar.

Council may prohibit erection of wooden buildings, &c.

CHAPTER XXV.

WATER WORKS.

SECTION	SECTION
334. Council may construct and regulate water works.	349. Construction and regulation thereof.
335. Trustees of water works.	350. Water works in contiguous cities or villages.
336. Their salary and duties.	351. Construction and regulation thereof.
337. By-laws, &c.	352. Contracts to supply contiguous cities or villages.
338. Water rents.	353. Cost thereof, how raised.
339. Disposition of surplus.	354. Works to be joint property, &c.
340. Monthly reports, and weekly deposits.	355. Termination of contract upon annexation.
341. Money to be kept as a distinct fund.	356. Tax to be levied for payment of interest.
342. Trustees to make contracts, &c.	357. Payment of interest on loans.
343. Annual investigation.	358. Tax to be a lien upon property.
344. No charge for water to extinguish fires, &c.	359. Laying of water pipes in highways.
345. Protection of attachments, &c.	360. Extent of jurisdiction.
346. Rules as to contracts.	
347. Contractors must give bond, &c.	
348. Extension of aqueducts, &c. beyond corporation limits.	

SEC. 334. The council of any city or incorporated village shall have power to enter upon and take possession of any land obtained for the construction or extension of water works, reservoirs, or the laying down of pipe, and also any water rights or easements connected with the use of water; and any land, water right or easement so taken possession of for water works purposes, shall not be used for any other purpose, except by authority of the trustees and consent of the council.

Council may construct and regulate water works.

Trustees of water works.

SEC. 335. The council of any city or incorporated village in which water works are or may be situated, or in progress of construction, shall establish a board of three trustees, to be known as the Trustees of Water Works, who shall be elected by the qualified electors of the corporation, and hold their office for the term of three years, except that at the first election under this act, one shall be chosen for one year, one for two years, and one for three years; and thereafter one of the trustees shall be elected annually.

Their salary and duties.

SEC. 336. Said trustees shall receive a fixed salary, to be determined by the council, and they shall manage, conduct and control the works, furnish supplies of water, collect water rents, and appoint all necessary officers and agents, and determine the term of office and the amount of the salaries of the officers and agents so appointed.

By-laws, &c.

SEC. 337. Said trustees shall be authorized to make such by-laws and regulations as they may deem necessary for the safe, economical and efficient management and protection of the water works, and such by-laws and regulations shall have the same validity as ordinances, when not repugnant thereto, or to the constitution and laws of the state.

Water rents.

SEC. 338. For the purpose of paying the expenses of conducting and managing water works, the trustees of water works shall have power to assess and collect, from time to time, a water rent of sufficient amount, in such manner as they may deem most equitable, upon all tenements and premises supplied with water.

Disposition of surplus.

SEC. 339. Should there be any surplus, after paying the expenses of conducting and managing the water works, the same may be applied to the repair, enlargement or extension of the works, or of the reservoirs, the payment of the interest of any loan made for their construction, or for the creation of a sinking fund for the liquidation of the debt; and the amount authorized to be levied and assessed for water works purposes, shall be applied by the council to the creation of a sinking fund for the payment of the indebtedness incurred for the construction and extension of water works, and for no other purpose whatever.

Monthly reports and weekly deposits.

SEC. 340. Said trustees shall make monthly reports to the council of the receipts and disbursements of money belonging to the water works, and an annual report of the condition of the same, which report the council may cause to be published in some newspaper of general circulation in the corporation; and all money collected for water works purposes they shall cause to be deposited weekly, by the collectors thereof, with the treasurer of the corporation, and the receipt therefor shall be by such collectors deposited with said trustees or their authorized agent.

Money to be kept as a distinct fund.

SEC. 341. All money so deposited shall be kept a separate and distinct fund, subject to the order of said trustees; and all orders drawn by said trustees on the treasurer of the corporation, shall be signed by one of the trustees, and countersigned by the clerk of the water works.

Trustees may make contracts, &c.

SEC. 342. The said trustees shall be authorized to make contracts for the building of machinery, water works build-

ings, reservoirs, and the enlargement and repair thereof, and the manufacture and laying down of pipe, and for all other necessary purposes to the full and efficient management and construction of water-works.

SEC. 343. The council of any corporation, in which water works are or may be situated, or in progress of construction, shall be authorized to appoint a committee for the investigation of all books and papers, together with all matters pertaining to the management of the water works, at least once a year, and oftener if necessary by reason of any neglect of duty, or malfeasance on the part of any officer of the works; and any officer of the works, found by said committee so offending, shall be liable to removal from office by the council.

Annual investigation.

SEC. 344. No charge shall be made by the trustees of water works for supplying water for the extinguishing of fires, or cleaning of fire apparatus, or the cleaning of market houses, or for the use of any of the public buildings belonging to the corporation.

No charge for water to extinguish fires, &c.

SEC. 345. All attachments of whatever nature made to the water pipes, or other fixtures belonging to the water works, and intended for public use, shall be subject to the same supervision, rules and regulations, as are made for the protection of water works against abuse, destruction, and inordinate or unnecessary use or waste of water, or the trustees may make general or special rules and regulations for such purpose.

Protection of attachments, &c.

SEC. 346. Said trustees, before entering into any contract for work to be done the estimated cost of which shall exceed five hundred dollars, shall cause at least two weeks' notice to be given, in one or more daily newspapers of general circulation in the corporation, that proposals will be received by said trustees, for the performing of the work specified in said notice; and the trustees shall contract with the lowest bidder, if, in their opinion, said lowest bidder can be depended on to do the work with ability, promptness and fidelity, and if such be not the case, said trustees may give the contract to the next lowest bidder, or decline to contract, and advertise again.

Rules as to contracts.

SEC. 347. Said trustees shall require bond to be given, with good and sufficient security, for the faithful performance of the work; but no member of said board of trustees shall be such security; nor shall any trustee be a contractor, or in any wise, either directly or indirectly, interested in any such work to be contracted for; provided, that in case of emergency, the council may, by a vote of two-thirds of all the members elected, authorize said trustees to enter into such contracts without advertising.

Contractors must give bond, &c.

SEC. 348. The council of any corporation owning water works, may, on the written request of any number of citizens living outside of the limits thereof, extend, construct, lay down, and maintain aqueducts and water pipes to any distance outside of the corporation limits, not exceeding three miles, and for this purpose shall have the right to make use

Extension of aqueducts, &c., beyond corporation limits.

Construction
and regulation
thereof.

of such of the public streets, roads, alleys and public grounds, as shall be necessary therefor.

SEC. 349. Such aqueducts and pipes shall be so constructed and laid as not to interfere unnecessarily with the use of such streets, roads, alleys, and public grounds, as public highways and public grounds; and the corporation so extending and establishing any part of its water works outside of its limits, shall have the same power and jurisdiction to prevent or punish any pollution of, or injury to the water so conveyed, or any injury to the works, or any portion thereof, as they may have within the limits of the corporation.

Water works in
contiguous
cities or vil-
lages.

SEC. 350. Any city or incorporated village owning water works, whose territory is contiguous to that of another city or incorporated village, may, with the assent of such other city or incorporated village, establish and maintain such portion of its water works as it shall deem advisable, within the limits of such other city or incorporated village, and shall have the right to make use of such of the public streets, alleys and public grounds of such other city or incorporated village as shall be necessary therefor, for the purpose of constructing, laying down, and maintaining all such aqueducts and water pipes as shall be required in connection with such water works, for the conveyance of water along and across such streets, alleys and public grounds.

Construction
and regulation
thereof.

SEC. 351. Such aqueducts and pipes shall be so constructed and laid as not to interfere unnecessarily with the use of such streets, alleys and public grounds, as public highways and public grounds; and the city or incorporated village so establishing any part of its water works within the limits of such other city or incorporated village, shall have jurisdiction to prevent or punish any pollution of, or injury to the water so conveyed, or of the stream or source from which the same shall be obtained, or any injury to any portion of said water works so located within the limits of such other city or incorporated village.

Contracts to
supply contig-
uous cities or
villages.

SEC. 352. Any city or incorporated village which shall have established, or shall be about to establish water works, is hereby authorized to enter into a contract with any contiguous city or incorporated village, for the supply of the latter with water, upon such terms as shall be mutually agreed upon by the board of trustees of water works of the respective cities, or of the city and incorporated village, or of the incorporated villages.

Cost thereof,
how raised.

SEC. 353. The amount to be paid for such supply, shall be raised by such city or incorporated village, in the manner provided for the payment of the expense of conducting and managing water works constructed wholly by a city or incorporated village; and the amount so received by the city or incorporated village furnishing such supply, shall be applied to the payment of the interest on the sum borrowed for the construction of such water works, or to defray the expense of their management, as the board of trustees for water works shall direct.

Works to be
joint property,
&c.

SEC. 354. Upon the annexation of one municipal corporation to another municipal corporation, the water works

theretofore constructed by either corporation, shall thereby become the joint property of the united corporation, and shall thereafter be managed by the board of trustees of the corporation to which such annexation shall have been made.

SEC. 355. Any contract entered into, by one municipal corporation, for the supply of water to the other, as above provided, shall be terminated by such annexation; and so much of the debt incurred by either, in the construction of water works, as remains unpaid, shall thereafter be a charge upon the united corporation, to the same extent that the separate debt of either, incurred as aforesaid, was, before such union, a charge upon the corporation which constructed the same.

Termination of contract upon annexation, &c.

SEC. 356. For the purpose of paying the interest on the money borrowed for the erection and completion of water works, during the erection and completion thereof, and before they shall have been put in operation, a tax of sufficient amount shall be assessed and collected each and every year, in the usual manner of levying and collecting taxes in the corporation, upon all the taxable property thereof.

Tax to be levied for payment of interest.

SEC. 357. For the purpose of paying the interest on any loan which any city or incorporated village may have heretofore made, or may hereafter make, for the erection or extension of water works, and after they shall have been put in operation, and for the building of machinery, a tax of sufficient amount may be assessed and collected by the council in each and every year, in such manner as the council may deem most equitable and proper, as may be directed by ordinance, upon all the taxable property adjoining, abutting to, or bounding upon any street, lane, alley, public ground, square, block or premises through which water pipe has been laid.

Payment of interest on loans.

SEC. 358. The said tax, when levied and assessed, shall be a lien upon the property upon which the same is levied, and a charge against the owners thereof, and shall be certified to the auditor of the county, and be placed upon the county duplicate in a separate column thereof, and be collected as other taxes, and the same shall be paid to and be under the control of the trustees of the water-works.

Tax to be a lien upon property.

SEC. 359. The council may prescribe, by ordinance, for the laying down of water-pipes in all highways about to be paved, macadamized, or otherwise permanently improved, and for the assessment of the cost and expense thereof upon the lots or parcels of land adjoining or abutting upon the highways in which the same are laid; but in no case, excepting as a sanitary measure, shall the council require any house connections to be built further from the main pipe than the outer line of the curb stone.

Laying of water-pipes in highways.

SEC. 360. The jurisdiction of any corporation owning water-works, to prevent or punish any pollution of the water, shall extend five miles beyond the corporation limits.

Extent of jurisdiction.

CHAPTER XXVI.

PUBLIC CEMETERIES AND BURIAL GROUNDS.

SECTION

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SECTION

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 394. Power limited as to villages.
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 396. Applicability to existing cemeteries.

Cemeteries to be provided.

SEC. 361. The council shall have power to provide, without the limits of the corporation, places for the interment of the dead.

Title to be vested in corporation.

SEC. 362. The title to, and right of possession of all public graveyards and burial grounds located within any city or incorporated village, which have been set apart and dedicated as public graveyards or burial grounds, and grounds which have been used as such by the public but not dedicated, except such as may be owned or under the care of any religious or benevolent society, or any incorporated company or association, shall be and the same are hereby vested in the corporation where such public graveyard or burial ground is located.

Board of trustees to be elected.

SEC. 363. The qualified electors of any city or incorporated village, in which there shall be such grounds, or which shall now or may hereafter, by purchase or otherwise, own a public cemetery or burial ground, shall elect, at the annual election for corporation officers, a board of three trustees, each of whom shall be qualified freehold electors of the corporation, who shall be known as the Trustees of Cemeteries.

Their term of office.

SEC. 364. Such trustees shall serve without compensation, and they shall hold their office for three years, and until their successors are elected and qualified, except that at the first election under this act, one of said trustees shall be elected for one year, one for two years, and one for three years, and thereafter one shall be elected annually, and a majority shall constitute a quorum.

Vacancies, how filled.

SEC. 365. All vacancies which may occur in said board, shall be filled by appointment of the council, and the person so appointed shall hold his office until the next regular election; and the council shall have power to remove any trustee for inattention to his duties, want of proper judgment, skill or taste for the due discharge of the duties required of him, or other good cause.

SEC. 366. Said trustees shall take possession and charge, and have the entire management, control and regulation of all public graveyards, burial grounds and cemeteries located in or belonging to the corporation, subject to its ordinances, and they shall direct, whenever they may deem it necessary, the laying out of such grounds and cemeteries, into lots, avenues, walks and paths, or other subdivisions, which lots shall be numbered, and the avenues named, and a plat thereof made so as to exhibit a fair and distinct outline of the grounds; and the same shall be kept in the office of the clerk of the corporation for the use of the public.

Duties of trustees.

SEC. 367. Said trustees shall have power to direct all the improvements and embellishments of the grounds and lots, and shall protect and preserve the same, and to appoint, subject to the approval of the council, all necessary superintendents, employes and agents, and determine their term of office and the amount of their compensation.

Their powers, &c.

SEC. 368. Said trustees are authorized and required, when necessary, to institute suits in the name of the corporation, to recover the possession of all such grounds, remove trespassers therefrom and recover damages for injuries thereto, or to any tombstone or monument therein, and they shall see that all laws and ordinances passed for the protection of public burial grounds and cemeteries, and the burial of the dead, are enforced.

May institute suits, &c.

SEC. 369. Said trustees shall make all such by-laws and regulations, not inconsistent with the ordinances of the corporation and the constitution and laws of the state, as they shall deem useful and necessary for the management and protection of all such burial grounds and cemeteries, and the burial of the dead therein; and such by-laws and regulations shall have the same validity as the ordinances of the corporation, and they shall perform all such other duties pertaining to their office as the council of the corporation may, by ordinance, prescribe.

Shall make by-laws, &c.

SEC. 370. Said trustees shall determine the size and price of lots, and terms of payment therefor, and shall give to each purchaser a receipt, showing the amount paid and a pertinent description of the lot or lots sold; and upon producing such receipt to the proper officer, such purchaser shall be entitled to a deed for the lot or lots described therein.

Shall fix price of lots and terms of payment.

SEC. 371. No more shall be charged for lots than shall be necessary to keep in order and embellish the grounds; and provision shall be made for the interment in such cemetery, of all persons buried at the expense of the corporation.

Price of lots limited.

SEC. 372. Said trustees shall have the entire charge and control of the receipts arising from the sale of lots, and of the laying off and embellishing the grounds; and they may appoint one of their number to sell lots, receive payment therefor, direct the improvements, and make the expenditures under such rules and orders as they shall prescribe, but notice of such appointment shall, upon being made, be communicated to the council.

Sale of lots, &c.

SEC. 373. Said trustees shall appoint a clerk, and keep an accurate minute of all their proceedings, and report quar-

Clerk and quarterly report.

Annual report to council.	terly to the council all the moneys received and disbursed by them as such trustees.
Statement as to funds, &c	SEC. 374. Said trustees shall, annually, on the first Monday of April, or as soon thereafter as may be practicable, report in writing to the council, the number of lots sold, to whom sold, and the amount received therefor during the year preceding said date, and a detailed statement of the expenditures during the same period, showing the time and purpose of each payment, and to whom made.
Enlargement of grounds.	SEC. 375. Such report shall also contain a pertinent statement whether the funds, if any on hand, are invested, and the character of the securities therefor, and such other matters as the trustees may deem expedient or the council may require.
Union of cities, &c, and townships for cemetery purpose..	SEC. 376. Whenever, in their judgment, an enlargement of any burial or cemetery grounds has become necessary, or grounds for additional cemeteries should be provided, the trustees shall report the fact to the council, and recommend such action as they may deem most expedient.
How appropriations shall be made.	SEC. 377. It shall be lawful for the council of any city or incorporated village and the trustees of any township adjacent to or in which such city or incorporated village is situated, to unite in the establishment of a cemetery by the purchase or appropriation of land therefor, not exceeding in extent one hundred acres, to be paid for as hereinafter provided.
Title, how vested.	SEC. 378. When any appropriation of land for such purpose shall be necessary, such appropriation shall be made by the corporation for itself and the township interested therein, and the proceedings therefor shall be the same as required by this act where the appropriation is to be made for the use of the corporation alone.
Expenses, &c., to be pro rata.	SEC. 379. The title to such cemetery grounds whether by purchase or otherwise, shall vest in and be held by such corporation in trust for the use of the inhabitants of the corporation and township in common, and provision shall be made for the interment in such cemetery of all persons buried at the expense of the corporation or the township.
Control and management.	SEC. 380. The expense of such purchase, or of the proceedings in case of appropriation, and the damages awarded, or both, shall be borne by the corporation and township in proportion to the property of each on the duplicate for taxation, and the amount of bonds issued by each in any case, for such cemetery purposes, shall be in the same proportion, and the percentage of taxation for all such cemetery purposes shall be the same in the corporation and the township.
Power to enforce ordinances, &c.	SEC. 381. The cemetery so owned in common by the corporation and township, shall be under the control and management of the trustees of cemeteries, and their authority over the same and their duties in relation thereto, shall be the same as where the cemetery is the exclusive property of the corporation.
	SEC. 382. The council of any city or incorporated village owning a cemetery in common with any township as aforesaid, shall have full power and authority to pass and enforce all ordinances necessary to carry into effect the provisions herein

contained, and such as may be deemed necessary for the preservation and regulation of such cemetery and the protection thereof, and for the punishment of any person or persons violating the ordinances, rules and regulations relating to such cemetery; and the mayor and police officers of such corporation shall have full and complete jurisdiction and authority to enforce all such ordinances, rules and regulations, as if such cemetery grounds were located within or owned exclusively by the corporation.

SEC. 383. No distinction or discrimination of any kind shall be made by the trustees of such cemetery owned in common, in favor of the corporation and against the township, or in favor of the township and against the corporation, but the affairs of the said cemetery shall in all respects be managed as though the same were owned and governed in the interests of the corporation or the township alone.

Discrimination
forbidden.

SEC. 384. The council of the corporation and the trustees of the township shall have a joint meeting at the council chamber of the corporation, on the day of the first regular meeting of the council in the month of May of each year, for the purpose of determining the rate of tax to be levied upon the taxable property of the corporation and the township for the purposes herein required; and upon the passage of a joint resolution by a majority of the members of the council and the trustees, fixing the rate of taxation, it shall be the duty of the clerk of the corporation to certify the said rate to the auditor of the county for assessment and collection.

Joint meeting of
council and trustees.

SEC. 385. The trustees of such township or the council of such corporation may at any time call a joint meeting of the trustees and council, on a reasonable notice given by either, for the purpose of making joint rules and regulations for the government of such cemetery, or changing the same, and making such orders as may be found necessary for the application of the moneys arising from the sale of lots, and from taxes, or otherwise.

Joint meeting to
make rules, &c.

SEC. 386. In all joint meetings each member of the council and each of the trustees shall have one vote in determining all questions; and the proceedings of all joint meetings shall be recorded by the corporation clerk.

Vote and record
thereof.

SEC. 387. In the establishment of cemeteries as herein provided, any city or incorporated village and any township may make use of any public burial ground or cemetery ground which may be held by such city, incorporated village or township, and may make use of any land which such city, incorporated village or township may have acquired by dedication, gift or devise for burial purposes.

Public burial
ground, &c., may
be appropriated.

SEC. 388. The council of any city or incorporated village, and the trustees of any township, may purchase of any cemetery association incorporated under existing laws, the lands, lots, and improvements of such cemetery association remaining unsold, for cemetery purposes, and take a conveyance thereof; but the purchase money in such cases shall be applied to the payment of the legal debts of such association, and to the embellishment and preservation of the land pur-

Purchase of
lands improve-
ment's, &c.

chased, and such other purposes as the trustees of the cemetery may direct.

Rights and titles
inviolable.

SEC. 389. The rights and titles of lot owners, purchased prior to such sale and conveyance, shall not be questioned; and such lot owners shall continue to hold and occupy their lots under such rules and regulations as shall be adopted for the government and regulation of such cemetery by the authorities making such purchase.

Adjoining town-
ships may be
admitted to par-
ticipation, &c.

SEC. 390. Any township adjoining one in which a cemetery may be established by a municipal corporation and township, may, by consent of the trustees of such township and of the council of the corporation, be admitted to an equal participation with the inhabitants thereof in the rights and privileges in said cemetery, upon such terms as may be mutually agreed upon; but the title and control of said cemetery shall continue vested in the corporation as above provided.

Clerk shall
record plat of
grounds, &c.

SEC. 391. It shall be the duty of the clerk of the corporation to record, in a book to be provided for that purpose, a plat of all grounds for cemetery purposes laid out into avenues, walks, paths and lots, and he shall execute to the purchasers of lots such conveyance as may be necessary to carry into effect the contracts of sale; and such conveyance shall, at the expense of the person receiving it, be recorded in a book to be kept for that purpose, by the clerk of the corporation.

Power of council
over burial
grounds, &c.

SEC. 392. The council of any city or incorporated village owning a public burial ground or cemetery, whether within or without the corporation, shall have full power to pass all ordinances necessary to carry into effect the provisions herein contained, and to regulate such public burial grounds and cemeteries, the improvement of the same and the burial of the dead therein, to define the tenure and conditions on which lots therein shall be held; to protect such public burial grounds and cemeteries and all fixtures thereon; and to provide for the punishment of all violations of such ordinances.

Burials may be
prohibited with-
in corporate
limits.

SEC. 393. The council may prohibit the interment of the dead within the corporation limits, and, for the purpose of making such prohibition effective, may not only impose proper fines and penalties, but shall also have power to cause any body, interred contrary thereto, to be taken up and buried without the limits of the corporation.

Power limited as
to villages.

SEC. 394. Incorporated villages shall not have the power to prohibit the interment of the dead, in any cemetery in use at the time of the incorporation of such village, except in such portions thereof as may not now be used for such interment.

Bond may be re-
quired of dis-
bursing trustee.

SEC. 395. The council shall have power, in their discretion, to require the trustee who may be authorized to receive and disburse the moneys arising from the sale of lots, or otherwise, to enter into a bond to the corporation, with sufficient sureties, conditioned for the faithful performance of his duty as such trustee, and to pay over all moneys by him received, which shall be filed in the office of the corporation clerk.

Applicability to
existing ceme-
teries.

SEC. 396. The provisions of this chapter relating to the establishment of cemeteries by municipal corporations and township trustees, shall govern cemeteries already so established, so far as the same may be applicable.

CHAPTER XXVII.

PUBLIC GROUNDS AND PARKS.

SECTION

397. Appointment of park commissioners.
398. To serve without compensation, &c.

SECTION

399. Their powers and duties.
400. Police jurisdiction over parks, &c.

SEC. 397. Whenever the council of any city or incorporated village shall, by resolution, determine to lay out and improve any public grounds or park, it shall be the duty of the mayor to appoint, with the consent of the council, three resident freehold electors of the corporation as commissioners for that purpose, one of whom shall be appointed to serve for one year, one for two years, and one for three years, and thereafter one commissioner annually to serve for three years.

Appointment of
park commis-
sioners.

SEC. 398. Said commissioners shall constitute a board to be called the "Park Commissioners," and they shall serve without compensation, and in incorporated villages, whenever the council may deem expedient so to declare by resolution, one or more of the said commissioners may be appointed from the members of such council.

To serve without
compensation,
&c.

SEC. 399. Said commissioners shall have power to appoint a superintendent and all other necessary employes, and fix their compensation, subject to the approval of the council, and prescribe their duties, and generally they shall have the same powers and perform the same duties, so far as applicable, as are vested in and required to be performed by the trustees of cemeteries as provided in chapter twenty-six.

Their powers and
duties.

SEC. 400. When such park or public grounds shall be situated without the limits of the city or incorporated village, the council shall have power, and may by ordinance extend the police jurisdiction of the corporation owning such park or grounds, over the same, in the same manner and to the same extent as if situated within the limits of the corporation.

Police jurisdic-
tion over parks,
&c.

CHAPTER XXVIII.

PUBLIC HALLS.

SECTION

401. Councils may erect public halls.
402. Enlargement, &c., of public halls.

SECTION

403. Appointment of superintendent, &c.
404. Council to have control of halls.

SEC. 401. The council of any city or incorporated village shall have power to erect, enlarge, improve and complete any public hall, which shall be used for the public offices of the corporation, and such public and other purposes as the council may authorize.

Councils may
erect public
halls.

SEC. 402. All the power herein conferred on any council, in relation to the erection, enlargement, improvement and completion of any public hall, shall apply to and be conferred on any council in the erection, enlarging, improving and completing any addition or additions to any public hall, now owned by the corporation, or which may be hereafter erected.

Enlargement,
&c., of public
halls

Appointment of
superintendent,
&c.

SEC. 403. For the complete execution of the powers in this chapter granted, the council shall have power to appoint a superintendent or architect, or both, and such other persons as may be deemed necessary, and to provide for the making of all necessary contracts, and prescribe rules and regulations for the government of all such employees.

Council to have
control of halls.

SEC. 404. Such hall, when completed, shall be under the control of the council, and the council shall have the same power in relation to the preservation and repair thereof as in its original construction or improvement.

CHAPTER XXIX.

DIVISION INTO WARDS.

SECTION

405. Boundaries, &c. of wards to be established by ordinance.
406. Publication of notice of ordinance.
407. Wards in annexed territory.
408. Boundaries of wards by streets, alleys, &c.

SECTION

409. Election of representatives of new wards.
410. Effect of change of wards on members of council.

Boundaries, &c.
of wards to be
established by
ordinance.

SEC. 405. Whenever the corporate limits of any city or incorporated village shall hereafter be altered, extended or reduced, or the population thereof, or of any ward or wards thereof, has been or may be so increased or diminished as to render, in the opinion of the council, a division or re-districting of the corporation into wards, or a change in the boundary of any ward or wards necessary, the same may be done by ordinance at any regular meeting of the council.

Publication of
notice of ordi-
nance

SEC. 406. Upon such ordinance being introduced, the council shall, by resolution, require the clerk to give notice of the pendency of the same, and of the proposed change, increase or reduction of boundaries, in some newspaper published and of general circulation in the corporation, for the period of three consecutive weeks prior to any action being taken thereon.

Wards in an-
nexed territory.

SEC. 407. When territory is annexed to any corporation, or one corporation is annexed to another corporation, such territory or corporation so annexed may be organized into a new ward or wards, or attached to any existing ward or wards, as the council may deem proper.

Boundaries of
wards by streets,
alleys, &c.

SEC. 408. All wards which may hereafter be established, and all changes in existing wards, shall be bounded by streets, alleys, avenues, public grounds, or corporation lines, and be composed of adjacent and compact territory; and the several wards, at the time of re-districting, shall contain as nearly an equal number of inhabitants as may be practicable.

Election of rep-
resentatives of
new wards

SEC. 409. Whenever any change in the number of wards or alteration in the boundaries of any ward shall be made, or new wards shall be established, there shall be no election for members of council or ward officers until the next ensuing annual election for corporation officers.

SEC. 410. Nothing in this chapter contained shall be construed to limit or abridge the term of office of any member of the council; and whenever it shall so happen that by reason of the alteration of any boundary of any ward or wards, or change in the number of the wards, the number or numbers of the ward in which any member or members may reside shall be changed, he or they shall be deemed and taken to represent that ward in which he or they may, after such change, reside during the remainder of his or their term of office.

Effect of change of wards on members of council.

CHAPTER XXX.

STREET RAILROADS.

SECTION

411. Street railroads authorized by ordinance.

412. Notice of application for ordinance to be published.

SECTION

413. Grade of streets where railroads are constructed.

414. Pavement of streets where railroads are constructed.

SEC. 411. The council, on the written application of any corporation, individual or individuals, desiring to construct any street railroad in any city or incorporated village, before the work of constructing such road be commenced, shall, by ordinance, grant permission therefor, and prescribe the terms and conditions upon, and the manner in which such road shall be constructed and operated, and the streets and avenues which shall be used and occupied therefor.

Street railroads authorized by ordinance.

SEC. 412. No ordinance for such purpose shall be passed until public notice of the application therefor has been given by the clerk of the corporation, in one or more of the daily papers, if there be such, and if not, then in one or more weekly papers published in the corporation, for the period of at least three consecutive weeks; and no such grant shall be given except to the corporation, individual or individuals that will agree to carry passengers upon such proposed railroad at the lowest rates of fare.

Notice of application for ordinance must be published.

SEC. 413. Before any street railroad shall be constructed on any street of less width than sixty seven feet, with a roadway of forty feet or under, the council shall provide that the crown of the street shall be made a nearly flat uniform curve from curb to curb, without ditch gutters, and in such manner as to give all wheeled vehicles the full use of the roadway up to the face of the curb, after the plan of the streets now adopted in the cities of Philadelphia and New York.

Grade of streets where railroads are constructed.

SEC. 414. The council shall have power to require any part or all of the track between the rails of any street railroad, constructed within the corporate limits, to be paved with gravel, boulders or the Nicholson wooden pavement, as may be deemed proper; but without the corporate limits, paving between the rails with boulders, or the Nicholson wooden pavement, shall not be required.

Pavement of streets where railroads are constructed.

CHAPTER XXXI.

GAS COMPANIES.

SECTION

415. Councils may regulate price of gas, &c.
 416. Minimum not to be reduced during term agreed upon.
 417. When council may occupy streets for gas purposes, &c.
 418. Gas companies may be permitted to occupy streets.
 419. Forfeiture of charter for neglect to furnish gas, &c.
 420. A temporary failure shall work no forfeiture.

SECTION

421. Gas measurers may be appointed.
 422. Exclusive monopoly shall not be allowed to gas companies, &c.
 423. Council may erect or purchase gas works.
 424. Trustees of gas works.
 425. To be elected at annual election.
 426. Powers of board of trustees.
 427. Laying of gas pipes, and expense thereof.

Councils may regulate price of gas, &c.

SEC. 415. The council of any city or incorporated village, in which gas companies or gas light and coke companies may be established, are hereby empowered to regulate from time to time the price which such gas or gas light and coke companies may charge for gas furnished by such companies to the citizens, public grounds and buildings, streets, lanes, alleys, avenues, wharves and landing places; and said gas light or gas light and coke companies shall in no event charge more for any gas furnished to such corporation or individuals than the price specified by ordinance of such council; and such council shall also have power to regulate and fix the price which such companies may charge for the rent of their meters.

Minimum not to be reduced during term agreed upon.

SEC. 416. In case the council fix the minimum price at which they shall require any company to furnish gas to the citizens or public buildings, or for the purpose of lighting the streets, alleys, avenues, wharves, landing places and public grounds, for a period not exceeding ten years, and the company assents thereto by written acceptance filed in the office of the clerk of the corporation, it shall not be lawful for the council to require said company to furnish gas at a less price during the period of time agreed on, not exceeding ten years as aforesaid.

When council may occupy streets for gas purposes, &c.

SEC. 417. If such companies shall at any time be required by the council to lay pipes and light any street, alley, avenue, wharf, landing place, public ground or building, and shall refuse or neglect for six months after being notified by authority of the council to comply with such requirement, the council may lay pipes and erect gas works for the lighting of said streets, alleys or public grounds, and all other streets, alleys and public grounds not already lighted; and said gas companies, or gas light and coke companies, shall thereafter be precluded from using or occupying any of the streets, alleys, public grounds or buildings not already furnished with gas pipes of such companies, and the council may open any street for the purpose of conveying gas as aforesaid.

Gas companies may be permitted to occupy streets.

SEC. 418. The council may at any time after the default mentioned in the preceding section, permit such gas companies to use and occupy the streets, alleys and public grounds of such corporation for the purpose of lighting the same, and furnishing gas to the citizens and public buildings.

SEC. 419. A neglect to furnish gas to the citizens and other consumers of gas, or to the corporation, by any company, in accordance with the prices fixed and established by the council from time to time, shall forfeit all rights of such company under the charter by which it has been established; and the council may proceed to erect, or by ordinance empower any person or persons to erect gas works for the supply of gas to such corporation and its citizens; provided, that nothing in this section, or in sections 416 and 417, shall operate to impair or affect any contract heretofore made between any municipal corporation and any gas light and coke company.

Forfeiture of charter for neglect to furnish gas, &c.

SEC. 420. A temporary failure to furnish gas shall not operate as a forfeiture, unless such failure shall be through the neglect or misconduct of such gas light or gas light and coke company.

A temporary failure shall work no forfeiture.

SEC. 421. The council of any corporation in which gas works may be constructed, may provide by ordinance for the appointment of one or more gas measurers, whose duty it shall be to inspect all gas meters and certify the correctness of all bills made against the consumers of gas, and perform such other duties as may be prescribed by ordinance.

Gas measurers may be appointed.

SEC. 422. It shall not be lawful for any council to agree by ordinance, contract or otherwise, with any person or persons, for the construction or extension of gas works for manufacturing or supplying the corporation or its inhabitants with gas, which shall give or continue to any person or persons making such agreement with the council, the exclusive privilege of using the streets, lanes, commons, or alleys, for the purpose of conveying gas to the corporation or the citizens thereof, or which shall deprive the council of the right to designate the kind of meter to be used for the correct measurement of the gas furnished under such agreement and to provide for inspecting and regulating the same, or which shall not specify the exact quality of the gas to be furnished, and reserve to the council the right to enforce an exact compliance with such specification, under such rules as the council may prescribe; nor shall the council make any such agreement which shall not secure to the council the right to purchase such works, and all the appurtenances belonging thereto, at any time within the existence of such contract or agreement.

Exclusive monopoly shall not be allowed to gas companies, &c.

SEC. 423. The council of any city or incorporated village shall have power, whenever it may be deemed expedient and for the public good, to erect gas works at the expense of the corporation, or to purchase any gas works already erected therein.

Council may erect or purchase gas works.

SEC. 424. When such purchase shall have been made, said council shall appoint a board of five trustees, who shall manage the said gas works and supply said corporation and the citizens thereof with gas, until their successors shall be elected and qualified, as hereinafter provided.

Trustees of gas works.

SEC. 425. At the annual election occurring next after such purchase, the qualified voters of the corporation shall elect a board of five trustees, to be known as the Trustees of Gas

To be elected at annual election.

Works, who shall hold their office for the term of five years, except that at the first election one trustee shall be chosen for one year, one for two years, one for three years, one for four years, and one for five years; and thereafter one trustee shall be elected annually; and said trustees shall not receive any compensation for their services.

Powers of board
of trustees.

SEC. 426. The said board shall have power to construct gas works, extend gas pipes, manufacture and sell gas and coke, collect gas bills and other moneys due for gas, coke, or other material sold by them, and disburse the same; to manage, conduct and control said gas works; to prescribe by by-laws the price of gas and coke, under such rules and regulations as, by ordinance, the council may prescribe, and the manner of using gas; and to carry into effect the provisions of this section, shall also have power to purchase material, employ laborers, appoint officers, purchase or lease the necessary real estate, and erect buildings thereon; and they shall be required to report to the council as often as said council may deem proper.

Laying of gas
pipe, and ex-
pense thereof.

SEC. 427. The council may prescribe, by ordinance, for the laying down of gas pipes in all highways about to be paved, macadamized, or otherwise permanently improved, and for the assessment of the cost and expense thereof upon the lots or parcels of land adjoining or abutting upon the highways in which the same are laid; but in no case excepting as a sanitary measure, shall the council require any house connections to be built further from the main pipe than the outer line of the curb stone.

CHAPTER XXXII.

LIGHTING BRIDGES AND RAILWAYS.

SECTION

428. Council may provide for lighting bridges.
429. Ordinance for that purpose.
430. Character of the ordinance.
431. Notice of requirement to light bridge to be given.

SECTION

432. When council may cause lighting to be done.
433. Expense to be a lien upon bridge.
434. How lien may be enforced.

Council may pro-
vide for lighting
bridges.

SEC. 428. The council of any city or incorporated village may provide for lighting any bridge located in whole or in part in the corporation, owned by any individual, company, association or corporation, and also for lighting any portion of any railway within the same.

Ordinance for
that purpose.

SEC. 429. Whenever it shall be deemed necessary by the council of any city or incorporated village to have such bridge or railway lighted, the council shall pass an ordinance for that purpose, requiring the individual, company, association or corporation owning the same, to light such bridge or railway within a specified time.

Character of the
ordinance.

SEC. 430. The ordinance shall specify the manner in which such bridge or railway shall be lighted, and the number and

style of lamp posts and lights and fixtures, and the time such lights shall be kept burning in each twenty-four hours.

SEC. 431. Notice of such requirement to light any bridge or railway, shall be given at least twenty days before any penalty or charge shall be imposed for default. Such notice may be given by delivering to any owner, or part owner, or any person having possession, charge or management of such bridge or railway, a written or printed copy of the ordinance.

Notice of requirement to light bridge to be given.

SEC. 432. Should the owner or owners of such bridge or railway neglect or fail to do said lighting, in conformity with the provisions of such ordinance, for twenty days after notice, as aforesaid, the council may immediately proceed to cause such lighting to be done at the expense of the owner or owners of such bridge or railway.

When council may cause lighting to be done.

SEC. 433. The council may direct the manner in which the expense of such lighting shall be assessed; and when assessed the amount shall be due and payable, and shall be a lien on such bridge and the land on which the same is built, or upon the real estate of the railway company, as the case may be.

Expense to be a lien upon bridge.

SEC. 434. Such charge may be collected or the lien enforced, in the manner pointed out in the chapter providing for the assessment of damages and expenses for making public improvements.

How lien may be enforced

CHAPTER XXXIII.

SPRINKLING STREETS.

SECTION

435. When council may order sprinkling of streets.

436. Assessment for expense of sprinkling.

SECTION

437. Assessment a lien on lands charged.

438. Expense of collecting to be added to assessment.

SEC. 435. On written petition of not less than one-half the owners of feet front of the land fronting on any street, or any specified part thereof, the council of any city or incorporated village may order such street, or specified part thereof, to be sprinkled with water, at such time or times as the council may deem proper.

When council may order sprinkling of streets.

SEC. 436. To pay the expense of such sprinkling, they may make assessments on the lands abutting on such street, or specified part thereof, either on the valuation thereof, as listed for taxation, or by the foot front, and such assessments may be enforced by suit against the owner or occupant of such land, or part thereof, or certified to the county auditor, and by him placed on the county duplicate, and collected by the county treasurer as other taxes are or may be collected; provided, that this section shall not apply to premises held and used by any religious society exclusively as a place for public worship, unless such society shall have joined in the petition mentioned in the last preceding section.

Assessment for expense of sprinkling.

SEC. 437. All such assessments shall be a lien on the lands charged, from the time the council determine the amount assessed against each parcel of land.

Assessment a lien on lands charged.

Expense of collecting to be added to assessment.

SEC. 438. In placing any such assessment on the duplicate, the county auditor is hereby authorized and required to add to each assessment such additional per centum as he may deem necessary to defray the expenses of collecting the same.

CHAPTER XXXIV.

CONTROLE OF STREETS, BRIDGES AND VEHICLES.

SECTION

439. Council to have control of streets, public grounds, &c.
440. Acceptance of dedication of streets by council.

SECTION

441. Council may prescribe width of tires fix rates of transportation, &c.

Council to have control of streets public grounds, &c.

SEC. 439. The council shall have the care, supervision and control of all public highways, bridges, streets, avenues, alleys, sidewalks and public grounds within the corporation, and shall cause the same to be kept open and in repair, and free from nuisance.

Acceptance of dedication of streets by council.

SEC. 440. No street or alley, which has been or may be dedicated to public use by the proprietor of ground in any corporation, shall be deemed a public street or alley, or to be under the care or control of the council, unless the dedication shall be accepted and confirmed by an ordinance specially passed for such purpose.

Council may prescribe width of tires fix rates for transportation, &c.

SEC. 441. The council shall have power to prescribe the width of the tires of all wagons, carts, drays, and other vehicles, used in the transportation of persons from one part of the corporation to another, or in the transportation of coal, wood, stone, lumber or iron, or other articles in the corporation; to establish stands for hackney coaches, cabs, omnibuses, and enforce the observance and use thereof, and to fix the rates and prices for the transportation of persons and property in such coaches and other vehicles, from one part of the corporation to another.

CHAPTER XXXV.

WHARVES, DOCKS AND HARBOR MASTERS.

SECTION

442. Council may establish wharves, docks, &c.
443. Wharves, &c., must have uniform grade.

SECTION

444. Control of shore, appointment of harbor masters, &c.
445. Copies of surveys to be prima facie evidence, &c.

Council may establish wharves, docks, &c.

SEC. 442. The council of any city or incorporated village shall have power to establish, construct, repair, control and regulate landing places, wharves, docks, piers and basins; to establish, control and regulate the grades of wharves and landing places, and to fix the rates of landing, wharfage and dockage, and to use, for the purposes aforesaid, any public landing or any property belonging to or under the control of the corporation.

SEC. 443. All wharves or landing places hereafter constructed, shall conform to a uniform grade to be established by the council; and it shall be unlawful for the owner, lessee or occupant of such property to construct any wharf or landing place without first obtaining the consent of the council, and conforming to the established grade.

Wharves, &c., must have uniform grade.

SEC. 444. The council shall have the use and control, for the above purpose, of the shore or bank of any lake or river, not the property of individuals, to the extent and in any manner that the state can grant such use or control; and the power to appoint harbor masters, wharf masters, port wardens, and other officers usual or proper for regulation of the navigation, trade or commerce of the corporation, to define their duties and powers, and fix their compensation.

Control of shore, appointment of harbor masters, &c.

SEC. 445. Copies of examinations and surveys, and of the proceedings of any port warden, in the discharge of the duties of his office, certified under his hand and seal, shall be prima facie evidence of the matters therein stated.

Copies of surveys to be prima facie evidence, &c.

CHAPTER XXXVI.

FERRIES.

SECTION 446. License, regulation, &c., of ferries.

SEC. 446. The council of any city or incorporated village, shall have the exclusive power to establish, regulate and license ferries, from such corporation or any landing therein, to the opposite shore, or from one part of the corporation to another; and in granting such license, to impose such reasonable terms and restrictions, in relation to the keeping of such ferries, and the time, manner and rates of the carriage and transportation of persons and property, as may be proper, and to provide for the revocation of any such license, and for the punishment, by proper fines and penalties, of the violation of any ordinance prohibiting unlicensed ferries, or regulating those established and licensed.

License, regulation, &c., of ferries.

CHAPTER XXXVII.

LICENSING SHOWS, AUCTIONEERS, ETC.

SECTION

447. General licensing powers of council.

SECTION

448. Licensing of vehicles, undertakers, &c.

SEC. 447. The council of any city or incorporated village, shall have power to license all exhibitors of shows and performances of every kind not prohibited by law; all hawkers and peddlers; all auctioneers of horses and other animals in the highways or public grounds of the corporation; all vendors of gunpowder and other explosives; all taverns and houses of public entertainment; all hucksters in the public

General licensing powers of council.

streets or markets; and in granting such license, may exact and receive such sum or sums of money as the council may think expedient.

Licensing of vehicles, undertakers, &c.

SEC. 448. The council shall also have power to license the owners of all vehicles of every description used for the transportation of persons and property, for hire in the corporation, and all undertakers and owners of hearses; but the owner of any such vehicle may be made liable for the breach of any ordinance regulating the conduct of the drivers thereof.

CHAPTER XXXVIII.

PAWNBROKERS.

SECTION

449. Pawnbrokers must be licensed.

450. They must keep an open record of all their transactions.

SECTION

451. Penalty for failure to keep and refusal to exhibit record, &c.

Pawnbrokers must be licensed.

SEC. 449. Any person or persons carrying on the business of pawnbroker, or of loaning money on jewelry or other personal property, in any city or incorporated village, shall take out a license from the city or incorporated village in which he or they do business, which license shall be fixed by ordinance at a cost not to exceed two hundred dollars per annum.

They must keep an open record of all their transactions.

SEC. 450. The person or persons so licensed shall keep a correct list and description, in a book for that purpose, of all articles pledged or deposited with them, or on which advances of money have been made, or which may be purchased by him or them, which list and description shall at all times be open to the inspection of the chief of police of the corporation, or of a police officer deputed by him or by the mayor to make such inspection; and he or they shall, at all times, when required by the police officer or mayor aforesaid, produce and show any article so listed and described, which may be in his or their possession; and he or they shall also register in such book the name and place of residence of the depositor.

Penalty for failure to keep and refusal to exhibit record, &c.

SEC. 451. Any person or persons carrying on the business of pawnbroker, who shall fail to take out a license therefor, or shall receive and advance money on any article or property pledged, and shall fail to keep a list, description and register as provided above, or who shall refuse to submit the same to the inspection of the chief of police or police officer deputed as aforesaid, or shall refuse to show the article or property when so required, shall, upon conviction thereof, before the police court or mayor of the corporation, be fined in any sum not less than ten dollars, nor more than one hundred dollars.

CHAPTER XXXIX.

FILLING UP LOTS AND REMOVAL OF OFFENSIVE SUBSTANCES.

SECTION

452. Power of corporation to fill lots, remove nuisances, &c.

453. Duty of owners to comply with directions.

SECTION

454. In case of refusal or neglect, work to be done at expense of owner, &c.

SEC. 452. All municipal corporations shall have power to cause any lot or lots of land within their limits, on which water shall at any time become stagnant, to be filled up, or drained, and to cause all putrid substances to be removed from any lot or lots; and may, from time to time, direct that such lot or lots be filled up or drained, or that such putrid substances be removed by the owner or owners in such reasonable time, and in such manner, as may be directed by a resolution of the council or trustees of the corporation.

Power of corporation to fill lots, remove nuisances, &c.

SEC. 453. It shall be the duty of such owner or owners, his, her or their agent or attorney, after service of a copy of said resolution, or after a publication of the same in some newspaper of general circulation in such corporation for four consecutive weeks, to comply with the directions of such resolution within the time therein specified.

Duty of owners to comply with directions

SEC. 454. In case of a failure or refusal to comply with such resolution, the work required thereby may be done at the expense of the corporation, and the amount of money so expended shall be recovered from the respective owners before a justice of the peace, or other court of competent jurisdiction; and such expense shall, from the time of the adoption of such resolution, be a lien on such lot or lots, which may be enforced by suit in the court of common pleas of the proper county; and like proceedings may be had as directed in relation to the improvement of streets.

In case of refusal or neglect, to be done at expense of owner, &c.

CHAPTER XL.

MARKETS.

SECTION

455. Power to establish markets, erect market houses, &c.

456. Power to regulate markets and marketing.

SECTION

457. No charge to be made for occupancy of market space, &c.

458. No authority to prevent sale of produce at any time or place.

SEC. 455. The council of any city or incorporated village shall have power to erect market houses, establish and regulate markets and market places, for the sale of meats, fish, provisions, vegetables, and other articles necessary for the sustenance, convenience and comfort of the inhabitants; to prescribe the times for opening and closing the same, the kind and description of articles which may be sold therein, and the stands or places to be occupied by the venders.

Power to establish markets, erect market houses, &c.

Power to regulate markets and marketing.

SEC. 456. The council shall also have power to prevent forestalling the markets, to prohibit or regulate huckstering in the markets, and to adopt such rules and regulations as are necessary to prevent fraud, and to preserve order in the markets; and they may authorize the immediate seizure, arrest and removal from any market, of any person or persons violating its regulations, together with any article in his or their possession, and the immediate seizure and destruction of tainted or unsound meat or other provisions.

No charge to be made for occupancy of market spaces, &c.

SEC. 457. No charge or assessment of any kind shall be levied upon any farmer or producer of vegetables or provisions bringing the same to market, for occupying a place, with or without horses and wagons used in bringing such produce to the market, in any of the market spaces, or in the streets contiguous thereto, on market days and evenings previous thereto.

No authority to prevent sale of produce at any time or place

SEC. 458. Nothing herein contained shall be so construed as to authorize the council to pass an ordinance for the purpose of assessing or imposing any fine or punishment on any farmer or producer, for selling at any time within the corporation, any article of provision or vegetables in any street or streets, or market spaces, during market hours.

CHAPTER XLI.

INSPECTORS OF PROVISIONS AND OTHER ARTICLES.

SECTION.

- 459. Licensing of gaugers, inspectors, &c.
- 460. Amount of license to be fixed by ordinance.
- 461. License to be for one year; vacancy.
- 462. Extent of license.
- 463. Powers, penalties, &c. of inspectors.
- 464. Inspectors may appoint deputies.
- 465. Oath, bond, &c. of inspectors.
- 466. Injury from neglect or incapacity to be recovered on bond.
- 467. Removal of inspector for cause.

SECTION.

- 468. Provisions of former act applicable to inspectors of oils.
- 469. Fees for inspection.
- 470. Inspectors of beef, cattle, sheep, hogs, &c.
- 471. Rules for inspectors to be prescribed by ordinance.
- 472. Oath of office, bond, &c. of inspectors.
- 473. Compensation of inspectors.
- 474. Inspectors for other purposes may be appointed.

Licensing of gaugers, inspectors, &c.

SEC. 459. The council of any city shall have power, whenever deemed necessary, to license one of the resident freehold electors of the corporation, possessing the necessary qualifications, to act within and for the corporation, as gauger and inspector of domestic and foreign spirits, linseed oil, lard oil, and carbon or mineral oils; one inspector of flour, meal and biscuit; one inspector of beef, pork, lard and butter; one inspector of pot and pearl ashes; and one inspector of fish, when exposed for sale in barrels or half barrels.

Amount of license to be fixed by ordinance.

SEC. 460. The amount of the said license shall be fixed by ordinance, and shall be limited as follows: To inspect beef, pork, butter and lard, not less than fifty nor more than one hundred dollars; to inspect fish, not less than two hundred and fifty nor more than five hundred dollars; and to inspect foreign and domestic spirits, linseed oil, lard and carbon or mineral oils, not less than seventy-five nor more than one hundred dollars.

SEC. 461. Upon the license fee, as required in the preceding section, being paid, the person named therein shall be authorized to act as such inspector for the period of one year from the date thereof; and in case of vacancy occurring by death or otherwise, during the term for which any inspector may have been licensed, the council may fill such vacancy by granting a license for such sum as may be deemed proper.

License to be for one year; vacancy.

SEC. 462. The said license may authorize the inspector or inspectors, or any one or more of them, to inspect any one or more of the articles named in the preceding section.

Extent of license.

SEC. 463. The inspectors shall, within and for said corporation, have the same powers, perform the same duties, take the same oaths or affirmations, be governed by the same rules, and liable to the same penalties, as are prescribed in the act entitled "an act for the inspection of certain articles therein enumerated," passed March ninth, one thousand eight hundred and thirty-one, and the act entitled "an act to amend the act entitled an act for the inspection of certain articles therein enumerated," passed February eleventh, one thousand eight hundred and thirty-two.

Powers, penalties, &c., of inspectors.

SEC. 464. Said inspectors shall have the power of appointing as many deputies to act under them as their respective duties in office may require, and for the conduct of the deputy, the principal shall be accountable and held liable.

Inspectors may appoint deputies.

SEC. 465. Every person so licensed as an inspector, shall, before entering upon the duties of his office, take an oath or affirmation, that he will faithfully and impartially execute the duties required of him by law, and shall enter into bond conditioned for the faithful performance of his duties as such officer, with sufficient security, to be approved by the council, as follows: For inspectors of beef, pork, butter and lard, the bond shall be three thousand dollars; and for inspectors of fish, foreign and domestic spirits, linseed, lard and carbon or mineral oils, one thousand dollars; which bond shall be filed in the office of the city clerk and made payable to the treasurer of the corporation, and shall be renewed, from year to year, as the council may require.

Oath, bond, &c., of inspectors.

SEC. 466. Any person injured by the misconduct, neglect or incapacity of any inspector, may, within one year after the cause of action shall have accrued, institute suit on such official bond, but the corporation shall not be liable for the costs of such suit; the said bond shall continue in force until the full amount of the penalty has been recovered, and any party obtaining judgment shall have execution as in other cases.

Injury from neglect or incapacity to be recovered

SEC. 467. The council shall have full power and authority, on complaint and sufficient cause shown, to remove from office any inspector; but no inspector shall be removed unless upon the vote of two-thirds of all the members elected.

Removal of inspector for cause.

SEC. 468. The council in the licensing of inspectors of carbon or mineral oils, and the inspectors of those oils, shall be governed by the provisions of an act entitled "an act to provide for the inspection of mineral oils for illuminating purposes, and to repeal acts therein named," passed April 16, 1867; and the said inspectors shall be liable to the penalties in said act now prescribed.

Provisions of former act applicable to inspectors of oils.

Fees for
inspection.

SEC. 469. The said inspectors shall be entitled to the following fees for their services, to be paid, on demand, by the party calling upon them, viz: For packing and inspecting every barrel of pork or beef, eighteen cents, and for every half barrel, thirteen cents; for every package or keg of butter or lard, ten cents; for packing and inspecting every barrel of fish, twenty cents, and for every half barrel, fifteen cents; and for inspecting and gauging foreign and domestic spirits, linseed oil, lard and carbon or mineral oils, where there are less than twenty packages, ten cents each, and more than twenty, the sum of five cents each.

Inspectors of
beef, cattle,
sheep, hogs &c.

SEC. 470. The council of any city or incorporated village, whenever it may be deemed necessary, shall have the further power to appoint one inspector, and, if required, one or more assistant inspectors, of beef cattle, sheep, hogs, poultry, game, milk, milk cows, fresh meat and fresh fish.

Rules for in-
spectors to be
prescribed by
ordinance.

SEC. 471. The council shall prescribe, by ordinance, the duties of said inspectors, define their powers and fix their term of office; and they are hereby authorized to prescribe penalties for the violation of ordinances passed in pursuance of this chapter, and determine the disposition of the above named articles when upon inspection they, or either of them, are found to be foul, tainted, or otherwise unfit for food.

Oath of office,
bond, &c. of
inspectors.

SEC. 472. Before any such inspector or assistant inspector shall enter upon the discharge of the duties of his office, he shall take an oath or affirmation that he will faithfully and impartially execute the duties required of him by law; and such inspector shall, moreover, enter into bond with sufficient security to be approved by the council, in such sum as the council may require, not less than one thousand dollars, made payable to the corporation where such inspector is appointed; which bond shall be deposited with the clerk, conditioned for the faithful and impartial performance of the duties required of him by law.

Compensation
of inspectors.

SEC. 473. Said inspectors shall be paid such compensation, not exceeding the sum of fifteen hundred dollars each, per annum, in such manner and at such times as the council may determine.

Inspectors for
other purposes
may be
appointed.

SEC. 474. The council of any city or incorporated village may provide by ordinance for the appointment of a suitable number of inspectors, for all such purposes as are not provided for by law, who shall hold their office for the term of three years; and for issuing licenses to such inspectors, and to regulate the fees to be paid them for their services.

CHAPTER XLII.

IDENTITY OF CORPORATION AND TOWNSHIP LINES—CHANGE
OF TOWNSHIP BOUNDARIES.

SECTION

475. When office of township trustees, &c., shall be abolished—infirmary directors.

476. Powers and duties of infirmary directors.

477. Duties of corporation treasurer and clerk.

478. Township property to vest in council, &c.

SECTION

479. Suits, judgments, &c., to be transferred to corporation.

480. Change of boundaries in certain cases.

481. Annexation of surplus territory, &c.

482. When limits of two or more townships shall constitute but one, &c.

483. Application for change of boundaries in certain cases.

SEC. 475. Whenever the corporate limits of any city or incorporated village become identical with those of any township, then and thereafter the office of township trustees, township treasurer, and township clerk, shall be abolished and cease; and all of the powers and duties of trustees of townships, conferred or prescribed by law, shall vest in and be performed by the council, except as to binding out apprentices and administering relief to the poor; and if such corporation is not already provided with an infirmary, the council shall forthwith, and from year to year, appoint one or more, and not exceeding three, directors of the infirmary, and prescribe their duties by ordinance.

When office of township trustees, &c., shall be abolished—infirmary directors.

SEC. 476. Such directors shall be clothed with all the powers and perform all the duties of township trustees, as to binding out and protecting apprentices, in relieving and removing paupers, and in counties having county infirmaries to make orders relative to paupers; which orders shall have the same validity, and be treated the same as like orders made by township trustees; and they shall have the power of recovering, in the name of the corporation, such expense as may be chargeable to other municipal corporations or persons.

Powers and duties of infirmary directors.

SEC. 477. The duties of treasurer and clerk of such township shall be performed by the clerk and treasurer of the corporation; and all moneys collected or authorized by law to be paid to the township treasurer shall be paid to such corporation treasurer.

Duties of corporation treasurer and clerk.

SEC. 478. All property, real and personal, together with all moneys and credits, books, vouchers, records, files, accounts, documents and bonds of an official character, in the possession or under the control of said township trustees, township clerk or township treasurer, or either of them, whose offices are thus abolished, shall vest in the council; and such township officers shall, when their offices have ceased by operation of this act, forthwith deliver over to the council of the corporation a full statement of their accounts, together with the property, moneys, credits, books, records, accounts, files, vouchers, official bonds and documents aforesaid.

Township property to vest in council, &c.

SEC. 479. All suits pending and judgments recovered by or against any such township, together with all rights, in-

Suits, judgments, &c., to be transferred to corporation.

terests, claims and demands, in favor of and against the same, may be continued, prosecuted, collected or enforced by or against the corporation; and all suits authorized by law to be brought by or against such township or township trustees, not caused by their non-compliance with this act, shall be prosecuted by or against the corporation.

Change of boundaries in certain cases.

SEC. 480. If the limits of any corporation do not comprise the whole territory of any established township in which the same is situate, or if they include territory comprised in more than one township, and the council of such corporation shall in either case, by a vote of a majority of the members thereof, petition the board of county commissioners of the proper county for a change of township boundaries, such county commissioners may, on the presentation of such petition with the proceedings of the council duly authenticated, at any regular or adjourned session, so change the boundaries of the township or townships in which the principal part of the corporation is situated, as to make the same identical, in all respects, with the boundaries of the corporation.

Annexation of surplus territory, &c.

SEC. 481. In making such change, said board of county commissioners shall annex the surplus territory, if any, so cut off from the township thus reduced to limits identical with the corporation, to any township or townships contiguous; or if such surplus shall contain sufficient territory, may erect the same into a new township, as in their opinion will best promote justice and the public convenience.

When limits of two or more townships shall constitute but one, &c.

SEC. 482. Where the limits of more than one township, portions of which are comprised within the corporation limits, have been reduced in the manner above provided, the territory embraced within the corporation limits shall thereafter constitute one township, and bear the name of that township within the corporation limits having the largest area of territory.

Application for change of boundaries in certain cases.

SEC. 483. Where the corporation is situate in two or more counties, the application authorized by section four hundred and eighty, may be made to the county commissioners of the county in which the largest portion of the territory of the corporation is contained.

CHAPTER XLIII.

TWO DAYS' LABOR ON THE STREETS—ROAD TAX.

SECTION

484. Labor on streets, who are liable, &c.
485. Penalty, &c., for refusal to perform labor.
486. Road districts and street commissioners.
487. Road taxes, how collected and applied.

SECTION

488. Attachment of contiguous territory for road purposes.
489. Collection of fines, forfeitures, &c.
490. Exemption from provisions of this chapter.

Labor on streets, who liable, &c.

SEC. 484. The council of any incorporated village or city shall have power to require each able bodied male person between the ages of twenty-one and fifty-five years, resident within the corporation, or within any contiguous territory

that shall be attached thereto for the purposes of this chapter as hereinafter provided, to perform in each and every year two days' labor upon the streets and alleys of such corporation, and upon the public roads or highways, or parts thereof that lie within the contiguous territory so attached as aforesaid; which labor shall be in lieu of the two days' labor required under the present laws regulating roads and highways.

SEC. 485. Upon refusal to perform such work under the proper street commissioner, or other officer appointed by the council, the delinquent shall be liable to the same fines, penalties and forfeitures as are provided by law against persons refusing to perform the two days' labor upon the roads and highways in other cases; and the same shall be recovered in the name of the corporation before the mayor thereof.

Penalty &c.,
for refusal to
perform labor.

SEC. 486. The council shall have power to form road districts within the limits of the corporation and contiguous territory attached as aforesaid, and to appoint suitable street commissioners, or other proper officers, for any length of time, not exceeding two years, for such districts, or for the whole limits of such corporation and the contiguous territory attached as aforesaid, who shall be governed in the performance of their duties by the by-laws and ordinances of the corporation.

Road districts
and street com-
missioners.

SEC. 487. No tax assessed upon property within the territory attached to any corporation as aforesaid, shall be applied otherwise than within the territory in which the same is assessed; and all taxes charged for road purposes on the property within the limits of the corporation, or the territory so attached, and collected by the county treasurer, shall be paid over to the corporation treasurer, to be specially appropriated by the council to street and road purposes within the corporate limits and territory so attached; and the trustees of the township in which said territory is located and the council may agree upon a different distribution or division of said funds.

Road taxes, how
collected and
applied.

SEC. 488. It shall be the duty of the council and the trustees of townships respectively in which any such corporation shall be situated, as soon after the passage of this act as practicable, and when from the sparseness of population the public interest shall require it, to attach to the corporation any territory lying contiguous thereto for the purposes mentioned in this chapter.

Attachment of
contiguous terri-
tory for road
purposes.

SEC. 489. The said street commissioners, or other proper officers, shall have power to collect by suit, all fines, forfeitures and penalties arising under the provisions of this chapter; and they are hereby authorized and required, before their annual settlement with the council, to prosecute to final judgment all persons neglecting or refusing to comply with the provisions of this chapter, from whom, in the opinion of such street commissioners, or other proper officers, such fine, penalty or forfeiture can be collected.

Collection of
fines, forfeitures,
&c.

SEC. 490. All persons who are, or may be exempt from performing labor on the public highways by any law of this state, shall not be subject to the provisions of this chapter.

Exemption from
provisions of
this chapter.

CHAPTER XLIV.

VACATING STREET OR ALLEY.

SECTION

491. Streets, may be vacated on petition, &c.

SECTION

492. Notice of petition to be published.
493. Effect of order of vacation, &c.

Streets may be vacated on petition, &c.

SEC. 491. The council of any city or incorporated village, on petition filed by any person or persons owning any lot or lots in the corporation, praying that any street or streets, alley or alleys, in the immediate vicinity of such lot or lots, may be vacated or narrowed, may, upon hearing and being satisfied that there is good cause for such vacation or narrowing, and that it will not be detrimental to the general interest, and that the same should be made, declare such street or streets, alley or alleys, vacated or narrowed.

Notice of petition to be published.

SEC. 492. No street or alley shall be vacated or narrowed as aforesaid, unless notice of the pendency and prayer of the petition shall be given by publishing the same in some newspaper, published in such corporation, for six consecutive weeks immediately preceding action on such petition; or in case no newspaper is published in the corporation, by posting such notice in three public places therein, six weeks immediately preceding such action.

Effect of order of vacation, &c.

SEC. 493. The order of the council, vacating or narrowing any street or alley which has been dedicated to public use by the proprietor, shall, to the extent to which the same is vacated or narrowed, operate as a revocation of the acceptance thereof by the council; but the right of way and easement therein of any lot owner shall not be impaired thereby.

CHAPTER XLV.

DAMAGES FOR EXCAVATIONS.

SECTION

494. Damages by excavation to be recovered by civil action.

SECTION

495. Depth of excavation allowable.

Damage by excavation to be recovered by civil action.

SEC. 494. If the owner or possessor of any lot or land in any city or incorporated village, shall dig, or cause to be dug, any cellar, pit, vault or excavation, to a greater depth than nine feet below the curb of the street on which such lot or land abuts, or if there be no curb, below the surface of the adjoining lots; and shall, by such excavation, cause any damage to any wall, house or other building, upon the lots adjoining thereto, the said owner or possessor shall be liable, in a civil action, to the party injured, to the full amount of the damage aforesaid.

Depth of excavation allowable.

SEC. 495. Such owner or possessor may dig, or cause to be dug, any such cellar, pit, or excavation, to the full depth of any foundation walls of any buildings upon the adjoining

lots, or to the full depth of nine feet below the established grade of the street whereon such lot abuts, without reference to the depth of adjoining foundation walls, without incurring the liability prescribed in this chapter.

CHAPTER XLVI.

BOARD OF IMPROVEMENTS.

SECTION

496. Composition of board of improvements.
497. Duties of board of improvements.
498. Powers of the board.
499. Clerk of board, his duties, &c.
500. Superintendents of improvements.
501. No improvements without recommendation of board.

SECTION

502. Powers and duties of board.
503. Petitions to be presented to board, &c.
504. Special boards of improvements in villages.
505. Powers and duties thereof.
506. No compensation allowed.

SEC. 496. Whenever the council of any city shall establish a board of improvements, such board shall be composed of the mayor, the civil engineer, the street commissioner, the chairman of the committee on streets of the city council, and one resident freehold elector of the corporation, to be appointed by the mayor, with the consent of the council, for such time as may by ordinance be provided.

Composition of board of improvements.

SEC. 497. It shall be the duty of the board to supervise the lighting, cleaning, repairing and improving of all streets, alleys, avenues, lanes, public squares and parks, public wharves and landings, market houses and spaces, bridges, sewers, culverts and ship channels, navigable streams, and water courses, within the corporation, or the control of the council thereof.

Duties of board of improvements.

SEC. 498. It shall have power to adopt such rules and regulations for its government as it may deem necessary and expedient to effect the purpose of its organization, not inconsistent with the ordinances of the corporation or constitution or laws of the state.

Powers of the board.

SEC. 499. It shall have power to appoint a clerk, whose duty it shall be to attend all meetings of the board, and keep a complete journal of all its proceedings, orders and resolutions, which journal shall be at all times open for public inspection. It shall also be the duty of the clerk to perform such other duties as the board shall from time to time require; and he shall be entitled to receive such compensation for his services as the council, upon the recommendation of the board, may determine.

Clerk of the board, his duties, &c.

SEC. 500. Such board shall also have power to employ such person or persons to superintend and perform the work of making improvements as the interests of the corporation demand; and the services of such employes shall be paid, on the recommendation of the board, in such manner as the council may determine.

Superintendents of improvements.

SEC. 501. No improvement or repairs shall be ordered or directed by the council for any street, lane, alley, avenue, park, public grounds, market-houses or spaces, bridges, sew

No improvements at recommendation of board.

ers, culverts, navigable streams, water-courses, ship channels, public wharves or landings of the corporation, except on the report and recommendation of the board of improvements.

Powers and duties of board.

SEC. 502. The board shall exercise such powers and perform such duties in the superintendence and construction of public works and improvements constructed by authority of the council or owned by the corporation, and perform such other duties relating to the public improvements and the enforcement of ordinances relating to the streets of the corporation, as the council may from time to time prescribe.

Petitions to be presented to board, &c.

SEC. 503. All petitions for improvements from owners of property shall be presented to the board, who shall report from time to time to the council when any such improvement is necessary or proper; and when any assessment is required, they shall report the same, and an estimate of the amount to be assessed, and the council shall take such action thereon as may be deemed proper.

Special boards of improvement, in villages.

SEC. 504. The council of any incorporated village, in which there is no civil engineer or street commissioner chosen by the electors, shall have the power to appoint two resident freehold electors of the corporation, who shall hold their office for two years, and who, with the mayor, shall constitute the board of improvements of such corporation.

Powers and duties thereof.

SEC. 505. Such board shall have the same powers and perform the same duties in respect to the incorporated village as are invested in and required of the board of city improvements under the preceding sections of this chapter.

No compensation allowed.

SEC. 506. The board of improvements shall not be entitled to receive any compensation for their services.

CHAPTER XLVII.

APPROPRIATION OF PRIVATE PROPERTY BY MUNICIPAL CORPORATIONS FOR PUBLIC USES.

SECTION

- 507. Purposes for which private property may be appropriated.
- 508. Appropriation for right of way, &c.
- 509. Definitions.
- 510. Appropriation of turnpikes or plank roads.
- 511. Concurrence of two-thirds of council necessary for condemnation, &c.
- 512. Declaration of purpose to appropriate, &c.
- 513. Application to court, &c.
- 514. Personal service of notice to owners, &c.
- 515. Court to set a time for inquiry, &c.
- 516. Special term of court may be held.
- 517. Jurors in probate court, how drawn, &c.
- 518. Inquiry, &c., to be at time appointed.
- 519. A view of the premises may be required.
- 520. Guardian ad litem for infants, &c.
- 521. Fuller description of property may be required.
- 522. Assessment, how made.

SECTION

- 523. Verdict in whole or in part.
- 524. Order as to payment or deposit.
- 525. Time and manner of delivery of property.
- 526. Costs, how to be paid.
- 527. No delay from doubt of ownership.
- 528. Interested parties may give bond, &c.
- 529. Review, when and how it may be had.
- 530. When execution of order may be suspended.
- 531. Appeal to court of common pleas.
- 532. Notice of appeal, and guarantee.
- 533. As to appeal by guardian, married woman, &c.
- 534. Probate judge shall furnish transcript, &c.
- 535. Original papers may be used.
- 536. Corporation shall not appeal.
- 537. Effect of neglect to take possession in six months.
- 538. Provisions of this chapter applicable to villages.

SEC. 507. Each city and incorporated village shall have power to appropriate, enter upon and hold real estate within

its corporate limits, for the following purposes ; but no more shall be taken or appropriated than is reasonably necessary for the purpose to which it is to be applied :

Purpose as for which private property may be appropriated.

1. For opening, widening, straightening and extending streets, alleys and avenues.
2. For market spaces.
3. For buildings and structures required for the use of the fire department.
4. For public halls and necessary offices.
5. For prisons.
6. For infirmaries.
7. For work houses.
8. For houses of refuge and correction.

For the four purposes last above named the right to appropriate may be exercised any where within the county in which the corporation or any part thereof is located.

9. For public hospitals.
10. For public parks.
11. For gas works.
12. For water-works ; and for this purpose the right to appropriate shall not be limited to lands lying within the limits of the corporation.

13. For school house sites and grounds, the same having been recommended and the site selected by the board of education.

14. For public cemeteries ; and for this purpose the right to appropriate shall not be limited to lands lying within the corporation. But no land shall be appropriated under this provision until the court shall be satisfied that suitable premises cannot be obtained by contract upon reasonable terms, and no lands shall be appropriated upon which there may be any dwelling house, barn, stable, or other farm building ; or upon which there shall be any orchard or nursery, or any valuable mineral or other medicinal spring ; or any well actually yielding oil or salt water ; nor shall any land be appropriated within two hundred yards of any dwelling house.

15. For public wharves and landings on navigable waters.

16. For levees to protect against floods ; and for this purpose the corporation shall have power to appropriate, enter upon, and take private property lying outside of the corporate limits ; and may extend and strengthen its levees and embankments along any river or stream adjacent to the limits of the corporation ; and may widen the channel of such river or stream.

17. For necessary bridges.

18. For constructing, opening, excavating, improving, deepening, enlarging, straightening, or extending any canal, ship channel or water course, located in whole or in part within the limits of the corporation, which is not owned in whole or in part by the state, or by any company or individual authorized by law to make such improvement.

19. For sewers, drains and ditches.

20. For public water closets and privies.

21. For lighting any public use.

Appropriation
for right of way,
&c.

SEC. 508. The power to appropriate may also be exercised where it is necessary to acquire the right of way to, or additional grounds for the enlargement or improvement of any public use herein specified. And whenever material is required for the construction, improvement, or repair of any such use, the corporate authorities are empowered to enter, appropriate and take the same; and for this purpose they may go outside the corporate limits.

Definitions.

SEC. 509. The terms "land" and "real estate," as used in this chapter, shall be regarded as including rights and easements of an incorporeal nature.

Appropriation of
turnpikes or
plankroads.

SEC. 510. When any turnpike or plankroad terminates within the corporate limits, any portion of such turnpike or plankroad so included therein, shall become a public street of the corporation, and shall be maintained and kept in repair as other streets; and the council may cause the same to be condemned and appropriated for use as such, according to the provisions of this chapter.

Concurrence of
two-thirds of
council necessary
for condemnation, &c.

SEC. 511. No improvement requiring proceedings for the condemnation of private property, shall be made without the concurrence in the by-law, ordinance or resolution directing the same, of two-thirds of the whole number of the members elected to the council.

Declaration of
purpose to appropriate,
&c.

SEC. 512. When it shall be deemed necessary by any municipal corporation to appropriate private property, as above provided, the council shall, by resolution, declare such intent, defining therein the purpose of the appropriation, and setting out a pertinent description of the property designed to be appropriated. On the passage of such resolution, the yeas and nays shall be taken and entered on the record of the proceedings of the council.

Application to
court, &c.

SEC. 513. Upon the passage of the resolution by the requisite majority, application in writing shall be made to the court of common pleas of the proper county, or to the judge thereof, in vacation, or to the probate court of the proper county, which application shall describe as correctly as may be the property to be taken, the object proposed, and shall name the owners of the property, and of each lot or parcel thereof, known.

Personal service
of notice to owners.

SEC. 514. Notice of the time and place of such application shall be given personally, in the ordinary manner of serving legal process, to all the owners of the property sought to be appropriated, resident in the state, whose place of residence is known; and to all others, by publishing a copy of the application, with a statement of the time and place at which it is to be made, for three weeks next preceding the time of the application, in some newspaper of general circulation in the county.

Court shall set a
time for inquiry,
&c.

SEC. 515. If it shall appear to the court or judge that such notice has been served five days before the time of the application, or has been published as above provided, and that such notice is reasonably specific and certain, the court or judge may set a time for the inquiry into and assessment of compensation, by a jury of twelve men, unless all the parties

shall agree upon a less number, who shall be duly sworn to discharge that duty.

SEC. 516. If the application be in the court of common pleas, and such court shall not be in session on the day fixed for the inquiry and assessment of compensation, the judge of the court of common pleas of the subdivision in which the property is situated, or in case of his absence, interest or disability, any other judge of said court within the district shall hold a special term of said court, for the purpose of hearing and determining such inquiry and assessment, and shall direct a jury to be summoned for the purpose of making such inquiry, in the same manner that petit jurors are summoned in the court of common pleas for other purposes.

Special term of court may be held.

SEC. 517. If the application be in the probate court, the clerk of the court of common pleas of the county shall, on the day fixed for the application, in the presence of the probate judge, draw twelve names, or such less number as may be agreed upon by the parties, from the box containing the names of persons selected as jurors for the county; and the persons so drawn shall be summoned and serve as the jury, unless excused or set aside by the court for good cause shown. If, for any cause, the panel is not full, the probate judge shall fill the same from the bystanders.

Jurors in probate court, how drawn, &c.

SEC. 518. The inquiry and assessment shall be made at the time appointed, unless, for good cause, continued to another day.

Inquiry, &c., to be at the time appointed.

SEC. 519. A view of the premises shall be ordered, when desired by the jury, or demanded by any party interested in the proceeding.

A view of the premises may be required

SEC. 520. If, at the time of such application, it shall appear that any of the owners of the property sought to be appropriated are infants, or insane, and that they have no guardian, a guardian ad litem shall be appointed to act in their behalf.

Guardian ad litem for infants, &c.

SEC. 521. The corporation may be required to file a more full and accurate description of the property to be taken, and the object proposed, and maps, plats and surveys, if in the opinion of the court, the same shall be necessary and proper.

Fuller description of property may be required.

SEC. 522. The assessment shall be in writing, signed by the jury, and shall be made so that the amount payable to each owner may be ascertained, either by allotting it to each owner by name, or on each lot or parcel of land; and the inquiry and assessment shall, in other respects, be made by the jury, under such rules and regulations as shall be given by the court.

Assessment, how made.

SEC. 523. The jury shall be sworn to make the whole inquiry and assessment, but may be allowed to return a verdict as to part, and be discharged as to the rest, in the discretion of the court; and in case a jury shall be discharged from rendering a verdict in whole or in part, another shall be drawn and empaneled at the earliest convenient time, who shall make the whole inquiry and assessment, or the part not made, as the case may be.

Verdict in whole or in part.

Order as to payment or deposit.

SEC. 524. So soon as the amount of compensation which may be due to the owners of the property to be taken, or to any of them, shall have been ascertained by the jury, the court shall make such order as to its payment or its deposit, as shall be deemed right and proper in respect to the time and place of payment or deposit, or to the persons entitled to receive payment, and the proportion payable to each, and may require adverse claimants for any part of the money or property, to interplead, so as fully to settle and determine their right and interests, according to equity and justice.

Time and manner of delivery of property.

SEC. 525. The court may direct the time and manner in which possession of the property condemned shall be taken or delivered, and may, if necessary, enforce any order giving possession.

Costs, how paid

SEC. 526. The costs occasioned by the inquiry and assessment shall be paid by the corporation, and the other costs which may arise shall be charged or taxed as the court in its discretion may direct.

No delay from doubt of ownership.

SEC. 527. No delay in making an assessment of compensation, or in taking possession, shall be occasioned by any doubt which may arise as to the ownership of the property, or any part thereof, or as to the interests of the respective owners; but in such cases the court shall require a deposit of the money allowed as compensation for the whole property, or the part in dispute; and in all cases, as soon as the corporation shall have paid the compensation assessed, or secured its payment by a deposit of money under the order of the court, possession of the property may be taken, and the public work or improvement progress.

Interested parties may give bond, &c.

SEC. 528. Any person or persons interested in the appropriation of private land for any street, alley or public highway, may, before or after the passage of an ordinance for the opening of such street, alley, or public highway, or before or after application to the court, execute his, her or their bond, payable to the corporation, to the acceptance of the council, conditioned for the payment of all damages which may be assessed by the jury; and such bond shall be good in law, and if such bondsmen shall make payment or deposit according to the order of the court, then such street, alley, or highway shall be opened; or the corporation may, at its discretion, make such payment or deposit, and collect by law the amount of such damages of such bondsmen, with or without costs, as the court may direct.

Review, when and how it may be had.

SEC. 529. Where the proceeding was in the court of common pleas, whether upon an original application therein, or upon an appeal from the probate court, any party interested in such inquiry and assessment, who shall feel aggrieved by the finding of the jury, or the order of the court, may have the part thereof in which such party may be interested and feel aggrieved, reviewed in the district court, by filing a petition for that purpose in the court of common pleas during the term at which the finding or decision complained of shall have been made; and it shall be the duty of the court of common pleas to report, in the nature of a bill of exceptions,

the facts necessary to show the ground of the finding or decision ; and said petition and report, or a transcript thereof, being filed in the district court, (which shall be done on or before the first day of the next term thereof,) the matter shall be heard and determined ; and if the court shall find that right and justice has not been done, a new assessment may be ordered by a jury in that court, which shall be made without delay, at the same term, if practicable ; or such other final order or judgment shall be made as may be deemed proper and equitable.

SEC. 530. When such petition shall be filed, the court of common pleas may suspend the execution of any order which may have been made, on such terms as may be deemed proper, and may require a bond, with security for the payment of any damages or costs which may be thereby occasioned ; but in all cases where the municipal corporation shall pay, or secure by a deposit of money, the compensation assessed by the jury, and shall give such security as may be deemed adequate to pay any further compensation, and all damages and costs which may be adjudged in the district court, the right to take and hold the property condemned shall not be affected by any such review.

When execution of order may be suspended.

SEC. 531. Where the proceeding was had in the probate court, any party interested in the inquiry and assessment may take an appeal to the court of common pleas ; and thereupon the same proceedings shall be had as if the application had been originally made in that court, except that the corporation shall not be required to give notice of its application, and the inquiry and assessment shall be limited to the case of the party taking the appeal. The court shall make such order for the payment of the costs accruing upon the appeal as may seem equitable and just.

Appeal to court of common pleas.

SEC. 532. The party desirous of appealing, shall, within ten days after the date of the final order determining the rights of such party, file with the probate judge notice of his or her intention to appeal ; and shall further, within twenty days after the making of said order, give a written undertaking to the adverse party, with one or more sufficient sureties to be approved by the probate judge, conditioned that the party appealing shall abide by and perform the order, judgment or decree of the appellate court, and pay all costs or moneys which may be awarded against said party by such court.

Nature of appeal and guarantee.

SEC. 533. When the appeal is taken by any person as guardian, executor or administrator, who has given bond as such to the state, no undertaking shall be required from such guardian, executor or administrator. When an appeal is taken by a married woman, it shall be sufficient if the undertaking is signed by her surety or sureties.

As to appeal by guardian, married woman, &c.

SEC. 534. The probate judge shall, upon the giving of the undertaking as above provided, or upon the filing of notice of the intention to appeal where no undertaking is required, make out an authenticated transcript of the docket or journal entries and of the order or decision appealed from, which shall be forthwith filed with the clerk of the court of common

Probate judge shall furnish transcript, &c.

pleas by the person appealing, and the appeal shall thereupon be considered perfected. If the transcript is not filed within thirty days after the date of the undertaking, or of the filing of the notice of intention to appeal where no undertaking is required, the party shall be deemed to have waived an appeal.

Original papers
may be used.

SEC. 535. The original papers pertaining to the proceeding may be used upon the hearing or inquiry in the court of common pleas, and shall be transmitted by the probate judge for that purpose.

Corporation
shall not appeal.

SEC. 536. The municipal corporation shall have no right of review or appeal.

Effect of neglect
to take possession
in six
months.

SEC. 537. Whenever a municipal corporation shall make an appropriation of land for any purpose specified in this chapter, and shall fail to pay for or take possession of the same within six months after the assessment of compensation shall have been made, as above provided, the right of such corporation to make such appropriation on the terms of the assessment so made, shall cease and determine; and any land so appropriated shall be relieved from all incumbrance on account of the proceeding in such case or the resolution of the council making the appropriation; and the judgment or order of the court, directing such assessment to be paid, shall cease to be of any effect, except as to the costs adjudged against the corporation.

Provisions of
this chapter ap-
plicable to villa-
ges.

SEC. 538. In cases in which incorporated villages for special purposes are authorized to appropriate private property, the proceedings shall conform, as far as practicable, to the provisions of this chapter.

CHAPTER XLVIII.

GENERAL RULES RELATIVE TO IMPROVEMENTS AND SPECIAL ASSESSMENTS.

SECTION

- 539. For what improvements general tax shall be levied.
- 540. Where concurrence of two-thirds of council requisite.
- 541. Assessments on owner of life estate, &c.
- 542. Rules of Assessment.
- 543. Assessment never to exceed fifty per cent. of value.
- 544. What shall be estimated as cost of improvement.
- 545. Lien from date of assessment.
- 546. Amount of assessment and penalty recoverable by suit, &c.
- 547. How lien may be enforced.
- 548. Lien as to non-resident owner.
- 549. Lien may be enforced against all owners, or a part.
- 550. Costs in case of error or defect in proceedings.

SECTION

- 551. When re-assessment may be ordered.
- 552. Proceedings upon re-assessment.
- 553. Special duty of court of common pleas.
- 554. Certificate and collection of unpaid assessment.
- 555. Payment and application of assessments.
- 556. Duration of lien, &c.
- 557. Where new action may be commenced.
- 558. Collection of assessment in advance.
- 559. As to deficiency or excess of assessment.
- 560. As to change of grade, after being once established.
- 561. As to added territory.
- 562. Proceedings in making improvements or repairs.

For what im-
provements gen-
eral tax shall be
levied.

SEC. 539. For the payment of the cost of the following improvements, including the necessary real estate, the council shall levy and assess a tax upon the general duplicate of

all the real and personal property subject to taxation within the limits of the corporation, which levy and assessment shall be by the clerk of the corporation certified to the auditor of the county, and by the auditor charged in the duplicate against said taxable property, and collected as other taxes; that is to say, for public halls and necessary offices, for structures for the fire department, for water works, market houses and spaces, cemeteries, parks, infirmaries, hospitals, gas works, prisons, houses of refuge and correction, work houses, public privies, and rights of way, wharves and landings on navigable waters, levees and embankments.

SEC. 540. No public improvement provided for in chapters forty-nine and fifty, the cost or part of the cost of which is to be specially assessed on the owners of adjacent property, and no order appointing assessors of damages, or confirming their report, shall be made without the concurrence of two-thirds of the whole number of the members elected to the council, unless two-thirds of the owners to be charged shall petition in writing therefor.

When concurrence of two-thirds of council requisite.

SEC. 541. Where a special assessment is made on real estate subject to a life estate, such assessment shall be apportioned between the owner of the life estate and the owner of the fee in proportion to the relative value of their respective estates, such proportion to be ascertained upon the principles applicable to life annuities.

Assessments on owner of life estate, &c.

SEC. 542. In making a special assessment according to valuation, the council shall be governed by the assessed value of lots where the land is subdivided and the lots are numbered and recorded. Where there are lots which are not assessed for taxation, or there is land which is in bulk and not subdivided into such lots, the council shall fix the value of such lots or the front of such land to the usual depth of lots, by the average of two blocks, one of which shall be next adjoining, on each side. If there are no blocks so adjoining, the council shall fix the value thereof, so that it will be a fair average of the assessed value of other lots in the neighborhood.

Rules of assessment.

SEC. 543. In no case shall the tax specially levied and assessed upon any lot or land for any improvement, amount to more than fifty per centum of the value of such lot or land, after the improvement has been made, and all the cost thereof exceeding the said per centum that would otherwise be chargeable on such lot or land, shall be paid by the corporation out of its general revenue.

Assessment not to exceed fifty per cent. of value.

SEC. 544. The cost of any improvement contemplated in this chapter, and in chapters forty-nine and fifty, shall include the expense of construction, the purchase money of real estate or of any interest therein, where the same has been acquired by purchase; or the value thereof as found by the jury, where the same has been appropriated, together with the costs and expenses of the proceeding. It shall embrace the damages assessed in favor of any owner of adjoining lands, and the costs and expenses of the assessment; also, the expense of the preliminary and other surveys; of all

What shall be estimated as cost of improvement.

printing, and of publishing the notices and ordinances required, including notice of assessment; and any other necessary expenditure.

Lien from date of assessment

SEC. 545. All special assessments shall be payable by the owner or owners of the property assessed personally, by the by the time stipulated in the ordinance making the same, and shall be a lien from the date of the assessment, upon the respective lots or parcels of land assessed.

Amount of assessment and penalty recoverable by suit, &c

SEC. 546. If payment be not made by the time stipulated, the amount assessed, may, together with interest, and a penalty of five per cent. thereon, be recovered by suit before a justice of the peace, or other court of competent jurisdiction, in the name of the corporation, against the owner or owners.

How lien may be enforced

SEC. 547. The lien upon real estate may be enforced in any court having general jurisdiction, in the name of the corporation.

Lien as to non-resident owner

SEC. 548. In proceedings to enforce the lien, when the owner of any lot or land assessed, is a non-resident of the state, or unknown, notice shall be given by publication in the manner prescribed by law in similar cases.

Lien may be enforced against all owners or a part, &c

SEC. 549. Proceedings for the recovery of the assessment, may be instituted against all the owners, or each or any number of them; or, to enforce the lien, against all the lots or lands, or each lot or parcel, or any number of them embraced in any one assessment; but the judgment or decree shall be rendered severally or separately, for the amount assessed; and any proceeding may be severed, in the discretion of the court, for the purpose of trial, review, or appeal.

Costs in case of error or defect in proceedings.

SEC. 550. If in any such action it shall appear that by reason of any irregularity or defect, whether in the proceedings of the board of improvements or of the council, or of any other officer of the corporation, or in the plans or estimates, the assessment has not been properly made against any defendant, or upon any lot or parcel of land sought to be charged, the court may, nevertheless, on satisfactory proof that expense has been incurred which is a proper charge against such defendant, or the lot, or parcel of land in question, render judgement for the amount properly chargeable against such defendant, or on such lot of land; but in such cases the court shall make such order for the payment of the costs as may be deemed equitable and proper.

When re-assessment may be ordered

SEC. 551. Whenever it shall appear to the council that any special assessment is invalid by reason of informalities or irregularities in the proceedings, or, when any court of competent jurisdiction shall adjudge any such assessment to be illegal, the council, whether the improvement has been made, or not, shall have power to order a re-assessment.

Proceedings upon re-assessment

SEC. 552. All proceedings upon such re-assessment, and for the collection thereof, shall be conducted in the same manner as is provided for the original assessment.

Special duty of court of common pleas.

SEC. 553. It shall be the duty of the court of common pleas of the proper county, to exercise the jurisdiction authorized by this chapter, for the collection of any charge or debt, or the enforcement of any lien, notwithstanding the

amount involved shall be less than that to which the jurisdiction of the court may be limited in other cases; and any court of common pleas may make such special rules as to the class of cases authorized to be brought under this chapter, as will tend to expedite their disposition, and prevent unnecessary costs.

SEC. 554. The council may order the clerk or other proper officer of the corporation to certify under his official seal any unpaid assessment or tax to the auditor of the county in which the corporation is situated, and the amount of such assessment or tax so certified shall be placed upon the grand tax duplicate of the county by the county auditor, and shall with ten per cent. penalty, to cover the interest and expense of collection, be collected with and in the same manner as state and county taxes, and credited to the corporation.

Certificate of unpaid assessment

SEC. 555. All assessments placed upon the duplicate of the county under the provisions of this chapter, shall, when collected, be paid to the treasurer of the corporation, and shall be applied by the council only for the purposes of the improvement for which they were made.

Payment and application of assessments.

SEC. 556. The lien of any such assessment shall continue for the term of two years from and after the time the same is payable and no longer, unless the corporation shall, before the expiration of such time, have caused the same to be certified to the auditor of the proper county, for entry upon the tax duplicate for collection, or shall have caused the proper action to be commenced in some court having jurisdiction thereof, to enforce such lien against such lots or lands; in which case the lien shall continue and be in force so long as such assessment shall remain on the tax duplicate uncollected, or so long as such action shall be pending, and any judgment obtained under and by virtue thereof, shall remain in force and unsatisfied.

Duration of lien, &c.

SEC. 557. If an action be commenced within due time, and a judgment therein for the plaintiff be reversed, or if the plaintiff fail in such action otherwise than upon the merits, and the time limited for the same shall have expired, a new action may be commenced within one year after such reversal or failure.

When new action may be commenced.

SEC. 558. The council may, if they deem expedient, cause the assessments to be collected before the work is done or contracted for.

Collection of assessment in advance.

SEC. 559. Should any assessment prove insufficient to pay for the improvement and expenses incident thereto, the council may, under the limitations prescribed for such assessment, make an additional pro rata assessment to supply such deficiency; and in case a larger amount shall have been collected than shall prove necessary, the same shall be returned to the persons from whom it was collected, in proportion to the amounts collected from such persons respectively.

As to deficiency or excess of assessments.

SEC. 560. Whenever any street, alley, public highway, wharf or landing, within the corporation, shall have been graded, or pavements shall have been constructed in conformity to grades established by the authorities of the corporation, and the expense thereof shall have been assessed

As to change of grade, after being once established.

on the lots or lands bounded by or abutting upon such street, alley, public highway, wharf or landing, the owner or owners of such lots or lands shall not be subject to any special assessment occasioned by any subsequent change of grade in such pavement, street, alley, public highway, wharf or landing, unless such change is asked for by a majority of the owners of such lots or lands, but the expense of all improvements occasioned by such change of grade shall be chargeable to the general fund of the corporation.

As to added territory.

SEC. 561. The provisions of chapters forty-nine and fifty shall embrace territory added to the corporation at any time by annexation or otherwise.

Proceedings in making improvements or repairs.

SEC. 562. When the corporation shall make any improvement or repair, provided for in this chapter and in chapters forty-nine and fifty, the cost of which will exceed five hundred dollars, it shall proceed as follows :

1. It shall advertise for bids for the period of four weeks in some newspaper in general circulation in said corporation, and two, if there are so many ; and if no newspaper is published therein, then by posting up such advertisement in three public places therein ; which advertisement shall be entered in full on the journal of the corporation.

2. The bids shall be filed with the clerk, sealed up, by 12 o'clock at noon of the last day as stated in the advertisement.

3. The bids shall be opened at the next regular meeting of the council, and publicly read by the clerk and entered in full on his journal.

4. Each bid shall contain the full name of every person interested in the same, and shall be accompanied by a sufficient guaranty of some disinterested person, that if the bid is accepted a contract will be entered into, and the performance of it properly secured.

5. If the work bid for embraces both labor and materials, each must be separately stated with the price thereof.

6. None but the lowest responsible bid shall be accepted, when such bids are for the labor or materials separately ; but the council may, in its discretion, reject all the bids, or it may, in its discretion, accept any bid for both labor and material, which shall be the lowest aggregate cost of such improvement or repairs.

7. Any part of a bid which is lower than the same part of any other, shall be accepted, whether the residue of the bid is higher or not, and if it is higher such residue shall be rejected.

8. The contract shall be between the corporation and the bidder, and the corporation shall pay the contract price for the work, when it is completed, in cash.

9. If two or more bids are equal in the whole or any part thereof, and are lower than any others, either may be accepted, but in no case shall the work be divided between them.

10. When there is reason to believe that there is any collusion or combination among the bidders, or any number of them, the bids of those concerned therein shall be rejected.

CHAPTER XLIX.

DAMAGES AND ASSESSMENTS FOR PUBLIC IMPROVEMENTS.

SECTION	SECTION
563. Publication of notice of proposed improvement.	583. Damages for land appropriated.
564. Filing claims for damages.	584. Report of estimate of assessments.
565. Determination of council as to claims for damages.	585. Notice of assessment to be published.
566. Jury to assess damages.	586. Objections to assessments to be filed, &c.
567. Proceedings of jury.	587. Duties of equalizing board.
568. Finding final.	588. Confirmed assessment final.
569. Costs of inquiry.	589. Concurrence of two-thirds requisite.
570. Assessment of damages after completion of improvement.	590. As to costs for street crossings, &c.
571. Assessment of damages in special cases.	591. Provision for sidewalks.
572. Oath of assessors of damages.	592. Notice to be served on owners, &c.
573. Duty of assessors of damages.	593. Construction of sidewalks to turnpikes, &c.
574. Costs in certain cases.	594. Construction of sidewalks on one side only.
575. Time allowed for proceedings.	595. Exemption from taxation in certain cases.
576. How costs for improvements shall be assessed.	596. Cost of sidewalks along wharves, parks, &c.
577. Payable in one or more instalments.	597. Cost of turnpikes, &c. owned or controlled by corporation.
578. Ordinance to specify time of payment.	598. Remedy for neglect of corporation to keep roads in repair.
579. Assessment on lots not abutting on improvement.	599. Adaptation of turnpikes to corporation improvements, &c.
580. As to costs for repaving streets, &c.	600. Right of toll not to be impaired.
581. When costs may be raised by general levy.	601. Cost of constructing, &c. water-courses.
582. Such levy to be certified to county auditor.	

I.—Notice of proposed improvement.

SEC. 563. When it shall be deemed necessary, by any city or incorporated village, to make any public improvement not otherwise specially provided for, it shall be the duty of the council to declare, by resolution, the necessity of such improvement, and to publish such resolution for four consecutive weeks in some newspaper published or of general circulation in the corporation, briefly describing the character of the proposed improvement, and referring to the plans and profiles thereof.

Publication of notices of proposed improvement.

II.—Claims for damages.

SEC. 564. Any owner or owners of lots or lands bounding or abutting upon the proposed improvement, claiming damages therefor, shall file a claim, in writing, with the clerk of the corporation, setting forth the amount of damages claimed, together with a description of the property owned for which the claim is made, within two weeks after the expiration of the time required for the publication of said notice; and all such owners as shall fail or neglect to file their claims for damages aforesaid, within the time aforesaid, shall be deemed to have waived the same, and be forever barred from filing any claim or receiving any damages therefor.

Filing claims for damages.

SEC. 565. Upon the expiration of the time limited for filing claims for damages as above provided, the council shall determine whether they will proceed with the proposed improvement or not; and also whether the claims for damages, filed as aforesaid, shall be judicially inquired into as herein-after provided, before commencing or after the completion of

Determination of council as to claims for damages.

the proposed improvement; and if they shall decide to proceed therewith, they shall then provide, by ordinance, for the same.

Jury to assess damages.

SEC. 566. Upon the passage of such ordinance providing for making the improvement, it shall be the duty of the mayor of the corporation, in cases where claims for damages have been filed within the time above limited, and the council shall have determined to have the damages assessed before commencing the improvement, to make written application to the probate judge of the county within which the corporation is situated, to summon a jury of twelve disinterested freeholders, resident within the corporation, to assess the amount of damages in each particular case where claims have been filed as aforesaid; and it shall be the duty of such probate judge to direct the summoning of a jury as aforesaid, in the manner pointed out in chapter forty-seven, and fix the time and place for the inquiry and assessment of such damages.

Proceedings of jury.

SEC. 567. The jury shall be sworn to inquire into and assess the actual damages in each case separately, under such rules and instructions as shall be given them by the court, and when the jury can not agree they may be discharged, in the discretion of the court, and a new jury summoned, which shall be sworn as aforesaid.

Finding final.

SEC. 568. The finding of the jury shall be final, and there shall be no appeal.

Costs of inquiry.

SEC. 569. In all cases in which the jury shall find no damages, the costs of the inquiry shall be taxed against the claimant, and be collected on execution. In all other cases the court shall furnish to the clerk of the corporation, on application, the amount of damages and costs in each case.

Assessment of damages after completion of improvement.

SEC. 570. In all cases, when the council shall have determined to assess the damages after the completion of any improvement provided for by this act, for which claims for damages have been filed as heretofore provided, it shall be the duty of the mayor, within ten days after the completion of such improvement, to make written application to the probate judge of the county to summon a jury in the manner pointed out in chapter forty-seven, to assess the amount of damage in each particular case where claims have been filed as aforesaid; and it shall be the duty of such probate judge, to fix the time and place for the inquiry and assessment of damages, and he shall proceed in the same manner as above provided.

Assessment of damages in special cases.

SEC. 571. Where, by reason of any defect or omission, in the proceedings herein provided for, the corporation shall be liable in an action for damages to any lot or land, occasioned by making any improvement; such damages shall be ascertained and assessed by three disinterested freeholders of the corporation, to be appointed by the council.

Oath of assessors of damages.

SEC. 572. The assessors, before entering upon their official duties, shall take and subscribe an oath before a justice of the peace, or mayor, that they will well and truly, to the best of their knowledge and ability, appraise the damages

which the claimants shall have suffered by reason of such improvement, and for which the corporation is liable; which oath shall be filed in the office of the clerk.

SEC. 573. They shall, within thirty days after their appointment, make said assessment, and file the same in the office of the clerk, where it shall be subject to the inspection of all claimants for damages, and all such damages shall be paid out of the corporation treasury, and within twenty days thereafter shall be by the treasurer paid or tendered to the party in whose favor the same were assessed.

Duty of assessors of damages.

SEC. 574. If any person shall neglect or refuse to accept the amount so assessed, and shall prosecute the corporation, and shall not recover more than the amount allowed by said assessors, such party shall pay all costs of suit.

Costs in certain cases

SEC. 575. No claimant for damages shall commence any suit until he shall have filed a claim therefor with the clerk of the corporation, and sixty days shall have elapsed thereafter, to enable such corporation to appoint assessors to assess such damages, return the same to the proper officers, and sufficient further time shall have elapsed, not exceeding twenty days after the return of such appraisal, to enable the corporation to pay the assessment.

Time allowed for proceedings.

III.—Special Assessments.

SEC. 576. For the payment of the costs of making said improvements, the council may, by ordinance, levy and assess a tax on all the lots or lands bounding or abutting on the proposed improvement, such tax to be either in proportion to the foot front of the lot or lands so bounding or abutting, or according to the value of such lot or lands as assessed for taxation under the general law of the state, as may be equitable and as the council may in each case determine.

How costs for improvements shall be assessed.

SEC. 577. The amount assessed may be made payable in one installment, or in such number of annual installments as the ordinance shall provide.

Payable in one or more installments.

SEC. 578. If the council shall determine that the costs and expense of the improvements shall be payable on the completion of the same, the ordinance shall specify the time when the assessment shall be paid.

Ordinance to specify time of payment.

SEC. 579. If, in the opinion of the council or board of improvements, the same would be equitable, a proportion of the cost of making the improvement may be assessed as herein provided, upon such other lots or lands within the corporation, not bounding or abutting upon the improvement, as will, in the opinion of the council or board, be specially accommodated and benefited thereby; and said board or council shall fix the amount to be so assessed.

Assessment on lots not abutting on improvement.

SEC. 580. Whenever in the opinion of the council it shall be deemed necessary to re-pave any street, alley or public highway, the grade remaining unchanged, and the cost and expense thereof having been paid by the abutting property, it shall be lawful for the council to provide therefor in accordance with the provisions of this chapter; and whenever in the

As to cost for re-paving streets, &c.

opinion of the council the same would be just and equitable, they shall have power to provide for the payment of one-half of the cost and expense of re-paving such street, alley or public highway, by levying and assessing upon the general duplicate of all the real and personal property subject to taxation within the limits of the corporation, an amount sufficient to pay one-half the estimated cost and expense of said improvement, and the said amount shall be certified and entered upon the general duplicate and collected the same as provided in chapter forty-eight.

When costs may
be raised by
general levy, &c.

SEC. 581. If, in the opinion of the council or board of improvements, it would be equitable, the whole or a proportion of the cost of the improvement as may be fixed by the council or board, may be raised by the levy and assessment by the council of a tax upon the general duplicate of all the real and personal property subject to taxation within the limits of the corporation; which levy and assessment shall be certified, charged and collected as provided in chapter forty-eight.

Such levy to be
certified to coun-
ty auditor, &c.

SEC. 582. Whenever the whole or any portion of any improvement authorized by this act shall pass by or through any public wharves, market spaces, parks, cemeteries, public grounds, structures for the fire department, for water-works, school buildings, infirmaries, market buildings, work-houses, hospitals, houses of refuge and correction, gas works, public prisons or any other public structure within the limits of and belonging to such municipal corporation, it shall be lawful for the council to authorize the proper proportion of the estimated cost of such improvement to be certified to the county auditor, and entered for taxation upon the general duplicate of all the real and personal property subject to taxation within the limits of the corporation.

Damages for land
appropriated.

SEC. 583. Where any part of any lot or parcel of land is taken or appropriated for any street, alley, or other highway, or public improvement, the damages assessed to the owner therefor shall be certified and entered for taxation on the general duplicate, and collected as provided in the preceding section.

Report of esti-
mate of assess-
ments.

SEC. 584. In all cases in which it is determined to assess the whole or any part of the cost of any improvement upon the lots or lands bounding or abutting upon the same, or upon other lots or lands benefited thereby, the council may require the board of improvements, or may appoint three disinterested freeholders of the corporation, or vicinity, to report to the council an estimated assessment of such cost on the lots or lands to be charged therewith, in proportion, as nearly as may be, to the benefits which may result from the improvement to the several lots or parcels of land so assessed, a copy of which assessment shall be filed in the office of the clerk of the corporation for public inspection.

Notice of assess-
ment to be pub-
lished.

SEC. 585. Before adopting the assessment so made, the council shall publish notice for three weeks consecutively, in some newspaper of general circulation in the corporation, that such assessment has been made, and that the same is on file

in the office of the clerk for the inspection and examination of any person interested therein.

SEC. 586. Any person objecting to such assessment shall file his objections, in writing, with the clerk within two weeks after the expiration of said notice; and thereupon the council shall appoint three disinterested freeholders of the corporation to act as an equalizing board.

Objections to assessment to be filed, &c.

SEC. 587. On a day appointed by the council for that purpose, the said board, after taking an oath before the mayor or other proper officer, honestly and impartially to discharge their duties, shall hear and determine all objections to the assessment, and shall equalize the same, as they shall think proper; which equalized assessment they shall report to the council, who shall have power to confirm the same, or set the same aside and cause a new assessment to be made, and appoint a new equalizing board possessing the same qualifications, who shall proceed in the same manner above provided.

Duties of equalizing board.

SEC. 588. When such assessment is confirmed by the council the same shall be complete and final.

Confirmed assessment final.

SEC. 589. A concurrence of two-thirds of the members of the council shall be necessary in appointing the equalizing board, and in confirming their assessment.

Concurrence of two-thirds requisite.

SEC. 590. Whenever the council shall determine to grade, pave, or otherwise improve any street, alley, or other highway, and such improvement crosses or intersects any other street, alley, or other highway, the council shall levy and assess a tax upon the general duplicate of all the real and personal property subject to taxation within the limits of the corporation, for the amount of the estimated cost of so much of such improvement as may be included and contained in the crossing or intersection of such street, alley, or other highway, to be by the clerk certified to the auditor of the proper county, and by the auditor charged in said duplicate against said taxable property and collected as other taxes.

As to costs for street crossings, &c.

IV.—Sidewalks.

SEC. 591. The council shall provide by ordinance for the construction and repair of all necessary sidewalks within the limits of the corporation.

Provision for sidewalks.

SEC. 592. Whenever the council or board of improvements declare, by resolution, that certain specified sidewalks should be constructed or repaired, the mayor, upon being advised thereof, shall cause a notice to be served upon the owner or owners or agent of the owner or owners of the property bounding or abutting on such sidewalk, of the passage of such resolution, and if such sidewalks are not constructed or repaired within sixty days from service of such notice, the council or board of improvements may have the same done at the expense of the owner or owners thereof, and such expense shall constitute a lien upon the property bounding or abutting thereon, and shall be collected in the same manner and with like penalty and interest after demand and non-payment as in other cases of improvement.

Notice to be served on owners, &c.

Construction of
sidewalks to
turnpikes, &c.

SEC. 593. The council or trustees of any municipal corporation, through or into which any turnpike or plank road passes or enters, may, with the consent of the authority having control or direction thereof, cause to be constructed on the sides of such road, sidewalks not exceeding twelve feet in width, and gutters for the passage of water; and may also cause the same when constructed to be kept in proper order and repair, and the council or trustees shall have power and authority, for the purpose of the construction or repair of such sidewalks or gutters, to assess and collect the charges and expenses thereof on the owners of lots and lands abutting on such road, and to supervise and control the said sidewalks and gutters in all respects as if said road were a street of the corporation.

Construction of
sidewalks on one
side only.

SEC. 594. If the board of improvements, council or trustees of any municipal corporation, shall deem it necessary to construct a sidewalk on one side only of any street, alley, turnpike or plank road, with proper crossings from one side to the other, it shall be lawful to assess and collect the charge for constructing or repairing such sidewalk and crossings on the owners of the lots or lands abutting on both sides of such street, alley or road, in like manner as if said sidewalk had been constructed on both sides; but after a sidewalk shall have been so constructed, and the charge therefor so assessed, if it shall be deemed necessary to construct a sidewalk on the other or corresponding side of any such street, alley or road, the charge therefor shall also be assessed on the owners of the lots and lands on both sides.

Exemption from
taxation in cer-
tain cases

SEC. 595. Nothing in this chapter shall be so construed as to tax property for the purpose of constructing any sidewalk the owners of which have already constructed and maintained a sufficient sidewalk in front of such property.

Cost of side-
walks along
wharves, parks,
&c.

SEC. 596. In all cases where it shall be deemed necessary by any municipal corporation to build or repair sidewalks along that portion of any street, alley or public highway, which passes by or through any public wharves, market spaces, parks, cemeteries public grounds or buildings, the proper proportion of the estimated expense thereof shall be by the council of such corporation levied, certified and collected in the same manner as is provided in chapter forty-eight.

V.—Turnpikes, Plankroads and Water-courses.

Cost of turn-
pikes, &c.,
owned or con-
trolled by cor-
poration.

SEC. 597. When any portion of any turnpike or plank road, or the control thereof, is required by any municipal corporation, or when any arrangement is made with the company owning the same for the improvement or repair thereof, the cost thereof, and of improving and keeping the same in repair, shall be provided for in the same manner as the streets and other highways of the corporation.

Remedy for neg-
lect of corpora-
tion to keep
roads in repair.

SEC. 598. If a municipal corporation shall condemn any portion of a turnpike or plankroad, and fail to keep the portion so condemned in as good condition and repair as is required by the charter of the company, the directors of the

company may, by writ of mandamus, compel the corporation to perform that duty.

SEC. 599. Whenever the road of any turnpike or plank-road company shall pass through or terminate in any municipal corporation, the council or trustees shall have power, with the consent of the company, to make any improvement or repair of such road as shall be additional to the improvement or repair required by law of the company, and as, in the opinion of the council or trustees, will better adapt such road to use as a street of the corporation.

Adaptation of
turnpikes to cor-
poration im-
provements, &c.

SEC. 600. The right of any company to take toll at any toll-gate established in the corporation, shall not be impaired by anything in this act contained.

Right of toll not
to be impaired.

SEC. 601. The expense of constructing, opening, enlarging, excavating, improving, deepening, or extending any canal, ship channel, or water course, as authorized by this act, shall be assessed and collected in the manner pointed out in this chapter.

Cost of construct-
ing, &c., water-
courses.

CHAPTER L.

SEWERS, DRAINS AND DITCHES.

SECTION

- 602. Plans for sewerage and drainage.
- 603. Sewer districts.
- 604. Main or trunk sewers.
- 605. Assessment by districts.
- 606. Discrimination as to improvements.
- 607. Plans and specifications.
- 608. Ten days' notice to be given, &c.
- 609. Amendment of plans, &c.
- 610. Engineer to estimate costs, &c.
- 611. Construction of sewers, ordinance, &c.
- 612. Assessment of cost of main sewers.
- 613. Limit of such assessment.
- 614. Assessment of cost of local sewerage.
- 615. Rule of assessment, &c.
- 616. Discrimination in assessment in certain cases.
- 617. Assessment not to exceed two dollars per front foot.
- 618. Assessment according to benefits.
- 619. Report of assessments.
- 620. Notice of assessment to be published.

SECTION

- 621. Filing of objections to assessment.
- 622. Action of council thereon.
- 623. New assessment provided for.
- 624. Errors to be corrected.
- 625. Order to county auditor to place assessment on duplicate.
- 626. Assessments to be a lien on lands.
- 627. Proceedings for recovery of assessments.
- 628. Assessments in new sewer districts.
- 629. Subdivision of main sewer districts.
- 630. Assessments pro rata, &c.
- 631. Construction of branch or local sewers.
- 632. Proceedings therefor.
- 633. Division of lots after first assessment.
- 634. House connexions and branches.
- 635. Cost of branch sewers, how assessed.
- 636. Tapping sewers for private use.
- 637. Ditches for drainage.
- 638. Repairs of ditches, sewers, &c.

SEC. 602. Whenever it may become necessary, in the opinion of the council of any city or incorporated village, to provide a system of sewerage and drainage for such city or incorporated village, or any part or parts thereof, it shall be the duty of the board of improvements to devise and form, or cause to be devised and formed, a plan of sewerage and drainage for the whole city or incorporated village, or such part or parts thereof as may be designated by the council.

Plans for sew-
erage and drain-
age.

SEC. 603. The plan so devised shall, in the discretion of the council, be formed, with the view of the division of the corporation into as many sewer districts as may be deemed necessary for securing efficient drainage and sewerage; each of the districts to be designated by name or number, and to consist of one or more main or principal sewers, with the necessary branches and connections, the main or principal

Sewer districts.

sewers having their outlet in a river or other proper place; the districts to be so arranged as to be independent of one another so far as practicable.

Main or trunk
sewers.

SEC. 604. The council may, if they deem expedient, provide for the construction of main or trunk sewers without regard to districts.

Assessments by
districts.

SEC. 605. Where the corporation is divided into sewer districts, the assessments provided for in this chapter, shall be by districts.

Discrimination
as to improve-
ments.

SEC. 606. After such plan shall have been prepared and adopted by the board of improvements, it shall be their duty to designate such portions of the work as may be required for immediate use. Where the corporation is divided into districts, such designation shall be by districts, and shall show what district or districts, or part or parts thereof, are to be improved.

Plans and speci-
fications.

SEC. 607. It shall be the duty of the board to have plans and specifications prepared for the construction of the proposed main sewers, showing the size, location and inclination thereof, and the depth of the same below the surface.

Ten days' notice
to be given, &c.

SEC. 608. When plans and specifications for the main sewers have been prepared, it shall be the duty of the board of improvements to give at least ten days' notice in one or more newspapers of general circulation in the corporation, stating that such plans have been prepared, and are filed in the office of the board for examination and inspection by parties interested. The notice shall also show the portions of the work proposed to be done; and, where main sewer districts are provided for, shall give the boundaries thereof.

Amendment of
plans, &c.

SEC. 609. At the time specified in the notice, or at any adjourned meeting, the board of improvements shall hear the parties interested, and may, if they see proper, amend or correct the plans; and they shall thereupon file the plans, as amended, or, if no amendment be made, then the original plans, duly certified by them, in the office of the civil engineer of the corporation.

Engineer to esti-
mate costs, &c.

SEC. 610. After the plan of sewerage for the corporation, or any part thereof, shall have been approved by the board of improvements, and duly filed in the manner above provided, the council may direct the civil engineer to make an estimate of the cost and expenses of constructing the work according to such plan, and to report to the council what portion of the same will be required for main sewerage, and what portion for local sewerage for any lots and lands to which any portion of such main sewer shall serve as local sewer.

Construction of
sewers, ordi-
nance, &c.

SEC. 611. The council shall, on the recommendation of the board of improvements, cause to be constructed such sewer or sewers, specified in said plan, as shall be designated by the board; and the ordinance shall specify the street, lane, alley, highway, market space, public landings or commons, or part or parts thereof, to be sewered and drained, in such manner that an examination or survey will show what lot or lots of land bound or abut on the same; and the council, upon the passage of such ordinance, shall cause a plat to be made and

filed in the office of the clerk of the corporation, of the lots so bounding or abutting, and the number of the feet front of each lot.

SEC. 612. The council shall provide for assessing the cost and expenses of constructing main sewers, upon the lots and lands bounding or abutting upon the streets, lanes, alleys, highways, market spaces, public landings and commons, in or along which the same shall pass, upon the feet front, or according to the valuation of the same on the county duplicate, or according to benefits, as they shall determine in each case.

Assessment of
cost of main
sewers.

SEC. 613. Such assessment shall not exceed the sum that would, in the opinion of the council, be required to construct an ordinary street sewer or drain of sufficient capacity to drain or sewer said lots or lands; nor shall any lots or lands be assessed that do not need local drainage, or are already provided therewith. The excess of the cost, if any, over the assessment herein authorized, shall be paid out of the sewer fund of the corporation.

Limit of such
assessment.

SEC. 614. The council shall also provide for assessing the expenses of local sewerage upon the feet front of lots and lands by or through which any portion of the main sewer may pass, or according to the valuation of the same upon the duplicate, or in proportion to benefits, as they shall determine in each case.

Assessment of
cost of local
sewerage.

SEC. 615. If the assessment is upon the feet front, the basis shall be determined by taking the total cost of constructing the main and lateral sewers and drains, and the necessary appurtenances and inlets, and dividing such gross amount by the number of feet front subject to assessment as herein provided for, on each side of the street, lane, alley, highway, common, market place or public landing, through or in which said sewers and drains may be laid, the quotient forming the amount to be assessed per foot front for each side of said street, lane, alley, highway, common, market space or public landing aforesaid, as a charge for the cost and expenses of constructing said sewers and drains, and their necessary appurtenances.

Rule of assess-
ment, &c.

SEC. 616. The council may exempt from assessment such portion of the frontage of any lot having a greater frontage than its average depth, and so much of any frontage of corner lots as to them may seem equitable, and charge the deficiency caused by such exemption on the whole frontage taxed pro rata; but in so doing they shall specially set forth in the ordinance making such assessment each lot so exempted; which ordinance, when passed, shall be binding upon the parties interested.

Discrimination
in assessment in
certain cases

SEC. 617. In no case shall the assessment exceed the sum of two dollars per front foot on the property assessed; and when the amount of the quotient exceeds this sum, the excess shall be paid out of the sewer fund of the corporation.

Assessment not
to exceed two
dollars per foot
front

SEC. 618. If the assessment is according to benefits, the council shall appoint three judicious freeholders of the corporation, or its vicinity, who shall assess the estimated expense of the main sewerage upon the lots or lands along

Assessment ac-
cording to bene-
fits.

which the same shall pass, in the manner above provided, in proportion to benefits; and the estimated expense of the local sewerage where such local sewerage shall be provided for by this chapter, on such lots and lands as will, in their opinion, be benefited thereby, whether fronting on the public ground in which the local sewer is to be constructed or not, in proportion, as nearly as may be, to the benefits which may result to each lot or parcel of land.

Report of assessments

SEC. 619. The assessors shall make a report in writing, specifying the amounts assessed by them upon each lot or parcel of land for main or local sewerage separately, and file the same with the clerk of the corporation within such time as the council shall direct.

Notice of assessment to be published.

SEC. 620. After the report is filed, the council shall cause not less than ten days' notice to be given in some newspaper of general circulation in the corporation, of the object of such assessment, and that the same will come before the council for confirmation at a time to be specified in the notice.

Filing of objections to assessment

SEC. 621. Objections to the assessment shall be in writing and filed with the clerk within two weeks after the expiration of the notice, and persons objecting may be heard before the council at the time specified in the notice.

Action of council thereon.

SEC. 622. The council may set aside the assessment on their own motion, or they may, after hearing objections, confirm the same.

New assessment provided for.

SEC. 623. If the council set the first or any other assessment aside, they may appoint other assessors possessing the same qualifications as hereinbefore provided, cause new assessments to be made, and the proceedings shall be the same as is provided for in the first assessment.

Errors to be corrected.

SEC. 624. In confirming any assessment, the council may correct any errors in description of any lots or lands made by the assessors.

Order to county auditor to place assessment on duplicate

SEC. 625. After making an assessment for main or local sewerage according to valuation, or according to feet front, or after the confirmation of any assessment for main or local sewerage according to benefits, the council may order such percentage of the assessment for main sewerage as may be necessary to pay the estimated cost of such portion of any main sewer, as provided for in this chapter, as they may determine to construct, together with the total assessment for local sewerage for such portion of any main sewer, whether the assessment be by valuation, by benefits or by the feet front, to be certified to the county auditor of the county in which the corporation is situate, to be placed on the county duplicate and collected as other taxes.

Assessments to be a lien on lands.

SEC. 626. All assessments made under the provisions of this chapter shall be a lien on the lots or lands assessed. They shall be transferrable, and may be collected against the owners personally, or by an enforcement of the lien upon the property subject thereto.

Proceedings for recovery of assessments.

SEC. 627. Proceedings for the recovery of the assessments or the enforcement of the lien, shall be as directed in chapter forty-eight.

SEC. 628. Whenever a sewer district shall be set off, or established, the main sewer of which shall be a continuation of, or drain through, or into, the main sewer of any other district, the council, in providing for assessing the cost and expenses of the main sewer in such new sewer district, may provide for assessing upon the lots and lands in such new sewer district such proportion as said council shall determine to be just, of the cost and expenses of constructing any unconstructed part of the main sewer, in the district through which said new main sewer shall drain; such assessment, when the proportion thereof shall be so determined, shall be made in the manner that other assessments are herein directed to be made.

Assessments in
new sewer dis-
tricts.

SEC. 629. The council shall have power to subdivide any main sewer district into sub-main sewer districts, or lateral or branch sewer districts, in the manner in which the establishment of main sewer districts is provided for; and to lay out and construct in such sub main, or lateral or branch sewer districts, sub-main, lateral or branch sewers having a common outlet into a main sewer, and to assess and collect the cost of such construction upon the lots and lands in such sub-main, or lateral or branch sewer district, in all respects, as directed in this chapter for the assessment and collection of the cost of constructing main sewers.

Subdivision of
main sewer dis-
tricts.

SEC. 630. If the council shall determine to build only a portion of the sewer or sewers in such sub-main, lateral or branch sewer districts, it shall be lawful in such case to levy and assess the pro rata cost of constructing the whole of the sewer or sewers in such districts, upon the lots or parcels of land bounding or abutting upon the streets or public highways through or by which said portion of such sewer or sewers may be constructed, and the excess in the cost of the sewer or sewers so built, over and above the estimated pro rata cost for the whole district, shall be levied and assessed pro rata upon all the lots or parcels of land bounding or abutting upon the streets or public highways in such districts in which the sewer or sewers are not at that time completed.

Assessments pro
rata, &c.

SEC. 631. The council may provide for the construction of branch or local sewers, upon any street or other public ground within the corporation, wherein a main sewer is not established or built, which local sewers shall connect with a main sewer convenient thereto, as the council may direct. If the corporation be laid off into districts, the connection shall be with a main sewer in the district wherein the local sewers are constructed.

Construction of
branch or local
sewers.

SEC. 632. Proceedings for the establishment and construction of local sewers, as provided for in the preceding section, and for the assessment and collection of the cost and expenses thereof, shall be as directed in the previous sections of this chapter regulating the establishment and construction of local sewers in connection with main sewers.

Proceedings
therefor

SEC. 633. Should any division or subdivision of lots or lands assessed for sewerage purposes occur after the first assessment has been made and confirmed, the council may require the same, or such other assessors as they shall select,

Division of lots
after first assess-
ment

to apportion the original amount assessed upon the several parts of lots or lands so divided, whose report, when confirmed by the council, shall be conclusive upon all parties; and all assessments thereafter made upon such lots or lands, shall be according to such division, and collected in the same manner as upon the original assessment.

House connections and branches.

SEC. 634. The council, upon the recommendation of the board of improvements, may provide for the construction of proper house connections and branches, leading into all main or branch sewers, and for the assessment of the cost and expense thereof upon the lots or parcels of land, for the accommodation of which such connections and branches may be constructed. In no case, except as a sanitary measure, shall the council require such house connections to be built further from the sewer than to the inner line of the curbstone of the street or highway in which the same may be constructed.

Cost of branch sewers, how assessed.

SEC. 635. When any improvement provided for in the preceding section has been made, and the assessment therefor has not previously been ordered, the council shall pass an ordinance assessing the cost thereof upon the lots or parcels of ground for the accommodation of which such improvement was made, and such ordinance shall declare the time within which said assessment shall be paid into the treasury.

Tapping sewers for private use.

SEC. 636. Parties owning property abutting upon any street or public highway, in or through which any public sewer or drain may be constructed, shall have the privilege of tapping and using the same for the purpose of draining their premises, under such rules and regulations as may be prescribed by the board of improvements; and the council may, by ordinance, require persons contracting to build such house connections to procure a license from said board, and may charge therefor such sum as may be deemed just.

Ditches for drainage.

SEC. 637. The council of any city or incorporated village shall also have power to provide for the construction of ditches for necessary drainage within the corporation, under the restrictions and regulations, so far as applicable, contained in this chapter.

Repair of sewers, ditches, &c

SEC. 638. The council may, whenever it shall be deemed necessary, provide for the repair or reconstruction of any sewer, ditch or drain. The proceedings for that purpose shall be the same, so far as applicable, as are herein required for the original construction thereof.

CHAPTER LI.

FINANCE AND TAXATION.

SECTION	SECTION
639. Taxation in villages for special purposes.	651. Levy and collection of taxes within corporation.
640. Rates of taxation in cities and villages for general purposes.	652. Delinquent taxes to be certified to county auditor, &c.
641. Rates of levy for special purposes.	653. Collection of taxes to pay bonds, &c. issued for public improvements.
642. Construction of limitations.	654. Collection to pay bonds issued for sewerage purposes.
643. Anticipation of tax in certain cases.	655. Taxes on lands laid off into lots, &c.
644. Rates of levy for special purposes.	656. Debts not to exceed taxes and other revenue.
645. Levy for payment of bonds.	657. Mayor to record his protest against excess of expenditure.
646. Levy for a greater tax to be submitted to vote.	658. Board of revision, its duties.
647. Levy of tax for public buildings.	659. Services and supplies to be in pursuance of contracts.
648. Maximum of tax allowable.	660. Council restricted as to contracts.
649. Per centage of tax to be certified to county auditor.	
650. Corporation taxes, how collected.	

SEC. 639. The trustees of incorporated villages for special purposes, shall have power to levy annually, upon the taxable property therein, such rate of taxes as may be necessary for the purposes mentioned in chapter five, not exceeding ten mills on the dollar, for all purposes in any one year. The taxes so levied shall be collected in the same manner as the taxes of other municipal corporations.

Taxation in villages for special purposes.

SEC. 640. The council of any city or incorporated village shall have power to levy, annually, for the general purposes of the corporation, such amount of taxes on each dollar of valuation of taxable property of the corporation on the grand duplicate, as may be determined upon by them, not exceeding the following rates:

Rates of taxation in cities and villages, for general purposes.

1. For each incorporated village, five mills.
2. For each city of the second class, six mills.
3. For each city of the first class, seven mills.

SEC. 641. Each city and incorporated village shall also have power to levy annually, in addition to the above, the following rates:

Rates of levy for special purposes.

1. For sanitary and street cleaning purposes, one mill.
2. For the maintenance of the infirmary of the corporation, and the support of the out-door poor, three-fourths of a mill.
3. For keeping in repair steam or other fire engines, graded wharves or landings on navigable waters, graded, macadamized or paved streets, corporation cemeteries, and for the support of the fire department, one mill and a half.
4. For lighting the corporation or supplying it with water, one mill and a half.
5. For keeping up and maintaining bridges, one-half of one mill.
6. For the payment of the marshal and police authorized by this act, one mill.
7. For the maintenance of the work house, one mill.
8. For the expense of maintaining and administering houses of refuge and correction, over and above the receipts

from labor of persons confined therein, such sum as may be necessary to meet the same.

9. For schools and school house purposes, such rate as may be prescribed by law.

10. For a sewer fund, one-half of one mill. Where the corporation is divided into sewer districts, the levy shall be by such districts.

Construction of
limitations.

SEC. 642. The limitations contained in the two preceding sections, shall not be construed to prohibit special assessments for improvements provided for by this act, nor the levy of a tax to raise means for the payment of the interest and principal of the debts of the corporation, nor of any tax authorized by law for special purposes.

Anticipation of
tax in certain
cases.

SEC. 643. The council shall have power to anticipate the tax authorized to be levied for sanitary and street cleaning purposes, either by the temporary transfer of other funds (except school funds), or by temporary loans for that purpose.

Rates of levy for
special purposes.

SEC. 644. The council shall also have power to make the following levies :

1. For the real estate and right of way required for any improvement authorized by this act, one mill.
2. For erecting, enlarging or improving water-works, three mills.
3. For the erection of school buildings, three mills.
4. For wharves and landings, one half of one mill.
5. For market houses, two-tenths of one mill.
6. For the erection of corporation prisons, three-tenths of one mill.
7. For the erection of buildings required for the fire department, the construction of reservoirs, the purchase of steam or other fire engines, hose and other apparatus for the use of such department, one mill.
8. For the erection of halls and public offices, one mill.
9. For the improvement of highways leading into the corporation, three-tenths of one mill.
10. For the construction of levees and embankments, one-half of one mill.
11. For the improvement of any water-course passing through the corporation, one-half of one mill.
12. For the erection of work-houses, three mills.
13. For the erection of houses of refuge and correction, three mills.
14. For the erection of hospitals, three mills.
15. For the erection of infirmaries, three mills.
16. For the erection of gas-works, three mills.
17. For grounds for cemetery purposes, inclosing, improving, embellishing or enlarging the same, one mill.
18. For grounds for public parks, inclosing, improving, embellishing or enlarging the same, two mills.
19. For the construction of bridges, two-tenths of one mill.
20. To pay the interest on the public debt of the corporation, a sum sufficient to satisfy the same as it accrues annually, to be applied to no other purpose.

21. For the construction and repair of sewers, drains and ditches, one mill. Where the corporation is divided into sewer districts, the levy shall be by such districts.

22. For the purpose of keeping up and maintaining a free public library and reading-room in the corporation, one-half of one mill. But no tax shall be levied for this purpose unless a suitable lot and building therefor, supplied with library furniture and fixtures, shall first be donated, leased to or rented by the corporation.

23. For any improvement authorized by this act not above provided for, one mill.

24. Such proportion of the amount authorized to be levied by this section, for either of the purposes therein specified, may be levied annually, as the council may, by ordinance, prescribe.

SEC. 645. When the bonds of the corporation have been issued in anticipation of any tax provided for in the preceding section, the same tax may be levied to raise means for the payment of such bonds as is authorized for the purpose for which they were issued.

Levy for payment of bonds.

SEC. 646. A greater tax than that authorized by this chapter, for either of the purposes mentioned therein, may be levied, if the proposition to make such levy shall have been first submitted to a vote of the electors of the corporation, under an ordinance prescribing the time, place, and manner of voting on the same, and approved by a majority of those voting on the proposition.

Levy of a greater tax to be submitted to a vote

SEC. 647. Whenever it may become necessary for any city to provide grounds and erect thereon a court house, jail, or public offices, for the use of the county within which it may be situated, or to contribute to either of said purposes, the council may levy a tax of one mill upon the taxable property of the corporation. But such tax shall not be levied until the same shall be approved by a majority of the electors of the corporation in the manner pointed out in the preceding section.

Levy of tax for public buildings.

SEC. 648. The aggregate of all taxes levied or ordered by any corporation, over and above the general levy, shall not exceed in any one year three per cent. on the value of any property assessed for taxation.

Maximum of tax allowable

SEC. 649. The council shall cause to be certified to the auditor of the county, on or before the first Monday of June, annually, the per centage by them levied on the real and personal property in the corporation returned on the grand levy; and the county auditor shall place the same on the duplicate of taxes for said county in the same manner as township taxes are now by law placed on said duplicate.

Per centage of tax to be certified to county auditor.

SEC. 650. The taxes of the corporation shall be collected by the county treasurer, and paid into the treasury of the corporation, in the same manner, with the same power and restrictions, and under the same regulations; and in all things as to the sale of real or personal property, he shall act according to the provisions and requisitions of the law for the collection of taxes for state and county purposes.

Corporation taxes, how collected.

Levy and collection of taxes within corporation.

SEC. 651. Nothing in this chapter shall be construed to prevent any corporation that may elect to do so from levying and collecting taxes within the corporation; and when any corporation shall elect to levy and collect such taxes, it shall be the duty of the council to provide, by ordinance, for the appointment and regulation of the necessary officers to carry the same into effect; and such officers so created shall have all the power, and be under all the restrictions of county auditors, county treasurers, and township assessors, so far as the same shall be applicable to them, except in the sale of delinquent lands.

Delinquent taxes to be certified to county auditor, &c.

SEC. 652. The council may order the clerk, or other proper officer of the council, to certify any delinquent tax assessed by the corporation to the auditor of the proper county, which delinquent taxes, so certified, the auditor is hereby required to place on the grand tax duplicate of the county in a separate column, and the same shall be collected in like manner as delinquent state and county taxes.

Collection of taxes to pay bonds, &c., issued for public improvements.

SEC. 653. In case any special assessment is made, as authorized in chapter forty-nine, and bonds, notes, or certificates of indebtedness of the corporation are issued in anticipation of the collection thereof, the ordinance directing the assessment shall specify the amount per foot front or the amount per valuation to be paid, and where the assessment is payable in installments, the amount to be paid annually. And it shall be the duty of the auditor or clerk of the corporation, on or before the second Monday in September, annually, to certify such assessment to the council, to be by them confirmed, and thereupon they shall direct the clerk to certify the same to the county auditor, who is hereby authorized and required to place the same on the tax duplicate; and the county treasurer is hereby authorized and required to collect said assessment in the same manner as other taxes are collected, and when collected he shall pay the same to the treasurer of the corporation, to be by him applied to the payment of said bonds, notes, or certificates of indebtedness and interest thereon, and for no other purpose; and for the purpose of enforcing the collection of said assessment, the county treasurer shall have the same power and authority now allowed by law for the collection of state and county taxes.

Collection to pay bonds issued for sewerage purposes.

SEC. 654. In case any special assessment is made for sewerage purposes, as authorized by chapter fifty, and the bonds of the corporation are issued in anticipation of the collection thereof, such assessment shall be certified to the council, confirmed, certified to the county auditor, and collected at the same time and in the same manner as is provided in the preceding section, and when collected, shall be applied to the payment of said bonds, and to no other purpose.

Taxes on lands laid off into lots, &c.

SEC. 655. The council shall have power to impose taxes upon parcels of land laid off into lots, and sold or leased by metes and bounds or other description, though the same shall not have been platted and recorded.

Debts not to exceed taxes and other revenue.

SEC. 656. The council shall not make appropriations nor contract debts for the ordinary purposes of the corporation,

exceeding the amount of taxes and revenue from other sources for the current year.

SEC. 657. If, in the opinion of the mayor, an expenditure shall be authorized by the council, exceeding the revenues of the corporation, for the current year, it shall be his duty to protest against such expenditure, and enter such protest, and the reasons therefor, on the journal of the council.

Mayor to record his protest against excess of expenditure.

SEC. 658. The mayor, the president of the council, and the solicitor of the corporation, shall constitute a board of revision, which shall meet as often as once in every month, to review the proceedings of the council, and of all other departments of the corporation government, and report to the council whether any department of such government has transcended its powers, whether any officer has neglected his duties, and also report whether any and what retrenchment in the expenses of the corporation, and what improvement in any of the departments of the corporation government can be made.

Board of revision, its duties.

SEC. 659. All services rendered and performed, and all supplies furnished for the corporation, shall, as far as practicable, be rendered, performed and supplied in pursuance of contracts to be authorized by the council, through some appropriate officer or department of the corporation.

Services and supplies to be in pursuance of contracts.

SEC. 660. It shall be unlawful for the council to enter into any contract which is not to go in full operation during the term for which all the members of such council are elected.

Council restricted as to contracts.

CHAPTER LII.

THE POWER TO BORROW MONEY AND ISSUE BONDS.

SECTION

- 661. Loans in anticipation of revenue.
- 662. Issue of bonds, &c. to extend time of payment.
- 663. Bonds for money borrowed in anticipation of revenue.
- 664. Bonds to be explicit on their face.
- 665. Borrowing money in anticipation of special assessment.

SECTION

- 666. Issue of bonds for money borrowed in anticipation of assessment.
- 667. Bonds may have coupons attached.
- 668. Character of bonds in certain cases.
- 669. Sale of bonds to be advertised.
- 670. Bonds not to be sold below par.
- 671. Penalty for diverting funds from their legitimate use.

SEC. 661. Loans may be made by municipal corporations, in anticipation of the general revenue fund. The aggregate amount of such loans in any one fiscal year shall not exceed, in case of an incorporated village for special purposes one thousand dollars, of an incorporated village fifteen thousand dollars, of a city of the second class fifty thousand dollars, of a city of the first class two hundred thousand dollars.

Loans in anticipation of revenue.

SEC. 662. The trustees or council of any municipal corporation, for the purpose of extending the time of the payment of any indebtedness incurred, which from its limits of taxation such corporation is unable to pay at maturity, shall have power to issue bonds of such corporation, or borrow money, so as to change but not increase the indebtedness, in such amounts and for such length of time, and at such rate of interest as the council may deem proper, not to exceed the rate of seven per centum per annum.

Issue of bonds, &c. to extend time of payment.

Bonds for money borrowed in anticipation of revenue.

SEC. 663. Loans may also be made by any municipal corporation in anticipation of the revenues to be derived from any tax authorized by this act for public improvements or other public use; and the council shall have power to issue the bonds of the corporation for the money so borrowed, in such amounts as they may determine, bearing a rate of interest not exceeding seven per centum per annum, and payable at such time as they may deem proper, not exceeding fifteen years, and redeemable at any time after six years at the pleasure of the council.

Bonds to be explicit on their face.

SEC. 664. All bonds issued under authority of this chapter shall express upon their face the purpose for which they were issued, and under what ordinance.

Borrowing money in anticipation of special assessment.

SEC. 665. The council of any municipal corporation shall also have power to borrow money at a rate of interest not exceeding seven per centum per annum, in anticipation of the collection of any special assessment, and to issue the bonds of the corporation therefor in the manner and form above provided for.

Issue of bonds for money borrowed in anticipation of assessment.

SEC. 666. If the council shall make any special assessment payable in annual installments, as authorized in chapter forty-nine, they shall have power to borrow upon the credit of the corporation a sum of money sufficient to pay the estimated cost and expense of the improvement, and shall have authority to issue bonds, notes, or certificates of indebtedness pledging the faith and credit of the corporation for the payment of the principal and interest of such bonds, notes, or certificates of indebtedness, said interest not to exceed the rate of seven per centum per annum, payable annually. All bonds, notes or certificates of indebtedness issued as aforesaid, shall have the name of the street or portion thereof so improved and for which the same were issued, legibly written or printed upon them, and shall be signed by the mayor and auditor or clerk, and be sealed with the seal of the corporation.

Bonds may have coupons attached.

SEC. 667. Bonds issued as provided in this chapter may, in the discretion of the council, have interest coupons attached.

Character of bonds in certain cases.

SEC. 668. Where the corporation is divided into districts for sewerage purposes, bonds issued for money borrowed to pay the expense of constructing or repairing sewers in any such district, shall have the name and number of the district for which they are issued legibly written or printed upon them.

Sale of bonds to be advertised.

SEC. 669. Whenever bonds are issued under the provisions of this act to an amount exceeding ten thousand dollars, the sale thereof shall be advertised in at least one newspaper published in the corporation, or if no newspaper be published therein, then in some newspaper of general circulation in the corporation, for at least ten days previous to such sale. The advertisement shall specify that sealed bids will be received at a place, and until a day and hour designated. The bids shall then be opened and read in the presence of the

bidders present, and the bonds shall be sold to the highest bidder, the corporation, however, reserving the right to reject all.

SEC. 670. In no case shall the bonds of the corporation be sold for less than their par value.

Bonds not to be sold below par.

SEC. 671. If any member of the council, or officer of the corporation, shall knowingly divert or appropriate any money borrowed, or bonds of the corporation, or any part of the proceeds thereof, to any purpose other than that for which such loan was made or such bonds issued, he shall, on conviction, be fined in any sum not less than one hundred nor more than one thousand dollars, or be imprisoned in the county jail not less than twenty days nor more than six months, or both, at the discretion of the court.

Penalty for diverting funds from their legitimate use.

CHAPTER LIII.

SINKING FUND.

SECTION

672. Tax for creating a sinking fund.

673. Levy for sinking fund to be upon property of districts benefited.

SECTION

674. Such levy to be certified to auditor.

675. Penalty for misappropriation of sinking fund.

SEC. 672. For the purpose of creating a sinking fund for the gradual extinguishment of the bonds and funded debt of any municipal corporation, the council thereof may annually (until payment of the bonds and funded debt be fully provided for) levy and collect, in addition to the other taxes of said corporation, a tax not less than one mill and not exceeding three mills upon the property appraised and returned as provided by law, which shall be paid into the treasury, and be applied by order of the council, to the extinguishment of said bonds and funded debt, and to no other purpose whatever.

Tax for creating a sinking fund.

SEC. 673. The levy to provide a sinking fund for the redemption of bonds issued for sewerage purposes, shall, where the corporation is divided into sewer districts, be upon the property of the district for which the bonds were issued.

Levy for sinking fund shall be upon property of districts benefited.

SEC. 674. The tax so levied shall be certified to the auditor of the county wherein the corporation is situated, to be placed on the county duplicate and collected as other taxes; such taxes shall be a lien on the property whereon they are assessed, the same as state and county taxes, and subject to the same penalties if delinquent.

Such levy to be certified to auditor.

SEC. 675. If any member of the council, or officer of the corporation, shall knowingly divert or appropriate the tax or sinking fund raised under this act, to any other purpose than that to which it is by this act appropriated, he shall, on conviction, be fined in any sum not less than one hundred nor more than one thousand dollars, or imprisoned in the county jail not less than twenty days nor more than six months, or both, at the discretion of the court.

Penalty for misappropriation of sinking fund.

CHAPTER LIV.

LEASE OR SALE OF CORPORATE PROPERTY.

SECTION

676. Lease or sale of corporate property authorized.

677. Disposition of fund so raised.

Lease or sale of corporate property authorized.

SEC. 676. The council of any city or incorporated village, may, upon the recommendation of the board of improvements, lease or convey, in such manner and for such sum as may be provided by ordinance, any real estate or interest therein, any wharf or public landing, any buildings, and also dispose of any material from any street, alley, avenue, sewer, bridge, ship channel, public ground or park, belonging to the corporation.

Disposition of fund so raised.

SEC. 677. The fund arising therefrom shall be paid into the corporation treasury; to the credit of the particular fund by which such property was acquired, if there be any such fund, and if no such fund exist, then to the general fund of the corporation.

This chapter not applicable to certain classes of property.

SEC. 678. The provisions of this chapter shall not apply to the sale of school property, except with the concurrence of the board of education, nor of property acquired for infirmaries, houses of refuge and correction and work-houses, except with the concurrence of the directors of those institutions, nor of property acquired for water-works purposes, except with a concurrence of the trustees of water-works, nor of any real estate or the buildings thereon devoted to hospitals, or other like benevolent institutions owned or managed by the corporation.

CHAPTER LV.

ANNEXATION OF TERRITORY TO A CITY OR INCORPORATED VILLAGE ON THE APPLICATION OF CITIZENS RESIDING THEREON.

SECTION

679. Annexation of adjacent territory.

680. Petitions for such annexation.

681. Proceedings thereon.

682. Report of transcript to council.

683. Rejection of application.

684. Proceedings on acceptance of application.

Annexation of adjacent territory.

Petitions for such annexation.

SEC. 679. The inhabitants residing on any territory adjacent to any city or incorporated village, may, at their own option, be annexed to such city or incorporated village, in the manner following:

SEC. 680. Application for such purpose shall be by petition, in writing, addressed to the commissioners of the county in which such territory is located, and shall be signed by a majority of the qualified freehold electors residing on said territory. It shall contain the name or names of some person or persons who are authorized to act as the agent or agents of the petitioners in securing such annexation, and

SECTION

685. Notice of filing of petition to enjoin.

686. Notice of order of dismissal, &c.

687. Stay of proceedings on order enjoining, &c.

688. Effect of acceptance of annexation.

689. Proceedings when territory lies in two or more counties.

shall fully describe the said territory, and be accompanied by an accurate map or plat thereof.

SEC. 681. Such petition shall be presented to the board of commissioners at some regular session thereof, and when so presented the same proceedings shall thereafter be had, in all respects, as far as applicable, and the same duties in respect thereto shall be performed by the commissioners and other officers, as are required in the case of application to be organized into an incorporated village under the provisions of chapter two; and the final transcript of said commissioners, and the accompanying map or plat and petition, shall be deposited with the clerk of the city or incorporated village to which such annexation is proposed to be made, who shall file the same in his office.

Proceedings
thereon.

SEC. 682. At the next regular session of the council of such city or incorporated village, after the expiration of sixty days from the date of such filing, the said clerk shall report the said transcript and the accompanying map or plat and petition to said council, and thereupon such council shall, by resolution or ordinance, accept or reject the said application for annexation.

Report of trans-
cript to council.

SEC. 683. If the resolution or ordinance shall be to reject such application for annexation, then no further proceedings shall be had; but such rejection shall not be held to operate as a bar to any future application to the county commissioners on the same subject.

Rejection of ap-
plication.

SEC. 684. If the resolution or ordinance of the council be an acceptance of such application for annexation, then it shall be the duty of the clerk of such city or incorporated village to make out two copies of the petition and map or plat accompanying the same, and transcript of the commissioners, and resolutions and ordinances in relation to such annexation, with a certificate that the same are correct, which certificate shall be signed by him in his official capacity, and be attested by the seal of such city or incorporated village, one of which copies he shall forthwith deliver to the recorder of the county, whose duty it shall be, having first made a record thereof in the proper books of record, to file and preserve the same, and the other of said copies shall be, by such clerk, forwarded to the secretary of state.

Proceedings on
acceptance of
application.

SEC. 685. If the clerk, within sixty days from the date of the filing of such transcript, map or plat and petition in his office, shall receive notice from any person interested, that he has filed a petition to the court or judge to enjoin all further proceedings, he shall not then report to the council such transcript, map or plat and petition filed with him, until after the final hearing and disposition of said petition.

Notice of filing
of petition to
enjoin.

SEC. 686. If the court or judge shall make an order dismissing such petition, the clerk of the county shall then immediately notify, in writing, the clerk of the corporation of the order made, and the clerk shall then, at the next regular meeting of the council, report to the same such transcript, map or plat and petition accompanying the same, as if no such petition had been filed.

Notice of order
of dismissal,
&c.

Stay of proceedings on order enjoining, &c.

SEC. 687. If the order of the court or judge be enjoining said clerk from making such report to the council as before provided, a certified copy of such order shall be immediately made by the proper officer of the court, and delivered to said clerk of the corporation, who shall file the same with such transcript, map or plat and petition, and preserve the same in his office, and thereupon no further proceedings shall be had in the matter; but such order of the court or judge shall not operate as a bar to any future application for the foregoing purpose to the commissioners of the county.

Effect of acceptance of annexation.

SEC. 688. So soon as said resolution or ordinance, accepting such annexation, has been adopted, the said territory shall be deemed and taken to be a part and parcel of the city or incorporated village, and the inhabitants residing thereon shall have and enjoy all the rights and privileges of the inhabitants within the original limits of such city or incorporated village.

Proceedings when territory lies in two or more counties.

SEC. 689. Where the corporation is situate in two or more counties, or where the territory to be annexed is situate in a different county from that in which the corporation or some part of it is situate, the proceedings, so far as practicable, shall be as directed in sections twenty-five and twenty-six of chapter two.

CHAPTER LVI.

ANNEXATION ON THE APPLICATION OF THE CORPORATION.

SECTION

690. Annexation on application of corporation.

691. Ordinance for annexation.

692. How application to be made.

693. Proceedings on petition.

694. Proceedings where territory lies in several counties, &c.

695. Effect of annexation completed.

696. Unnoticed errors and irregularities not to vitiate annexation.

Annexation on application of corporation.

SEC. 690. When any municipal corporation, not an incorporated village for special purposes, shall desire to enlarge its corporate limits by the annexation of contiguous territory, it shall be done in the following manner:

Ordinance for annexation.

SEC. 691. The council of the corporation, by the vote of not less than a majority of the members elected, shall pass an ordinance authorizing such annexation to be made, and directing the solicitor of the corporation, or some one else to be named in the ordinance, to prosecute the proceedings necessary to effect such annexation.

How application to be made.

SEC. 692. Application for such purpose shall be by petition, in writing, of the corporation to the commissioners of the proper county, which petition shall set forth that under an ordinance of the council duly and legally passed, the territory therein described was authorized to be annexed to the corporation, and shall accurately describe such territory and be accompanied by an accurate map or plat thereof.

Proceedings on petition.

SEC. 693. Upon such petition being presented to the commissioners, like proceedings thereon shall be had, in all respects, so far as applicable, as are required under the provisions of chapter fifty-five.

SEC. 694. Where the corporation is situated in two or more counties, or when the territory to be annexed is situated in a different county from that in which the corporation or some part of it is situated, the proceedings shall be in the county in which the territory to be annexed, or some part of it, is situate.

Proceedings where territory lies in several counties, &c

SEC. 695. When the annexation of such described territory has been completed, the same shall in law be deemed and held to be included in and constitute a part of such municipal corporation, and the inhabitants residing thereon shall have and enjoy all the rights and privileges of the inhabitants residing within the original limits of the corporation.

Effect of annexation completed.

SEC. 696. When any addition has been made to any corporation, and the same has been recognized as a part thereof, and has been taxed, and taxes thereon paid, and subjected to the ordinances and the authority of the council, without objection, such addition shall be deemed part of the corporation, and the inhabitants residing thereon citizens thereof, notwithstanding any errors, irregularities or defects in making such addition.

Errors and irregularities not to vitiate annexation.

CHAPTER LVII.

ANNEXATION OF ONE MUNICIPAL CORPORATION TO ANOTHER MUNICIPAL CORPORATION.

SECTION

697. Annexation of contiguous corporations.

698. Submission to vote of electors.

699. Such submission by ordinances.

700. Effect of affirmative vote.

701. Commissioners to arrange terms, &c.

SECTION

702. Approval by ordinances.

703. Transcripts to be filed in office of recorder.

704. Annexation complete, &c.

705. One government, &c., for both corporations.

SEC. 697. When any municipal corporation the territory of which shall be contiguous and adjoining the territory of another municipal corporation, shall desire to be annexed to such other corporation, such annexation shall be effected in the following manner:

Annexation of contiguous corporations.

SEC. 698. The trustees or council of the corporation proposing such annexation shall submit the question of such annexation to the qualified electors thereof, and the trustees or council of the corporation to which the annexation is proposed to be made shall also submit the same question to its qualified voters.

Submission to vote of electors.

SEC. 699. Such submission shall be by ordinances adopted by the trustees or council of each corporation at least thirty days prior to the annual April or October election, at which election the vote shall be taken, and the ordinances shall each prescribe the manner in which such submission shall be made, and they shall be published in each corporation, by posters or otherwise, in such manner as the respective trustees or councils may deem most expedient, for the period of at least twenty days prior to the day fixed for such election.

Such submission by ordinances.

Effect of affirmative vote.

SEC. 700. If a majority of the qualified electors of each corporation voting on the question so submitted, at the same election, be in favor of such annexation, the trustees or council of each shall thereupon, within a reasonable time, cause the result to be certified to the other corporation.

Commissioners to arrange terms, &c

SEC. 701. The trustees or council of each corporation shall then appoint, by resolution or ordinance, three commissioners, whose duty it shall be to arrange the terms and conditions of such annexation, and report the result of their action, when agreed upon, to the trustees or council of their respective corporations.

Approval by ordinances.

SEC. 702. When the report of such commissioners shall be approved by an ordinance passed by each corporation, certified copies thereof, signed by the presiding officer of the trustees or council of each corporation, and the respective clerks thereof, and attested by the corporate seal of each, shall be filed in the office of the clerk of the corporation to which such annexation is proposed to be made.

Transcripts to be filed in office of recorder, &c.

SEC. 703. It shall then be the duty of the clerk, under the direction of the corporation, to make out and certify two transcripts of all the ordinances, abstracts of the returns of the votes, and other papers relating to such annexation, one of which shall be filed in the office of the recorder of the county, who, having made a record thereof, shall file and preserve the same; and the other shall be forwarded by said clerk to the secretary of state.

Annexation complete, &c.

SEC. 704. So soon as said transcripts shall be certified, delivered and forwarded, the annexation shall be deemed complete; and it shall be lawful for the corporation to which the annexation has been made, to pass such ordinances as will carry into effect the terms thereof, so far as the same shall not be inconsistent with this act and with the regular and proper government of the corporation under the provisions thereof, and any part of such terms so inconsistent shall be deemed void; but their nullity shall in no manner affect such annexation.

One government, &c, for both corporations.

SEC. 705. When the annexation has been completed, the two former corporations shall thereafter be governed as one, embracing the territory of each; and the inhabitants of all such territory shall have equal rights and privileges; but such annexation shall not affect, or in any wise impair any rights or liabilities existing at the time of the annexation, either in favor of or against said corporations; and suits founded upon such rights and liabilities may be commenced, and pending suits prosecuted and carried to final judgment and execution, the same as though such annexation had not taken place.

CHAPTER LVIII.

SURRENDER OF MUNICIPAL RIGHTS.

SECTION

706. Surrender of municipal rights.
 707. Petition therefor.
 708. Notice, &c. of election.
 709. What the ballots shall contain.
 710. Poll books and tally sheet.
 711. To be opened, &c. by council.
 712. Declaration on affirmative vote.
 713. Certified transcripts to be made, &c.

SECTION

714. Officers, &c. to continue until next election.
 715. Villages may surrender in like manner.
 716. Surrender not to affect accrued rights.
 717. Disposition of taxes, &c. due at time of surrender.

SEC. 706. Any city of the second class may surrender its corporate rights and be reduced to the grade of an incorporated villages, in the following manner:

Surrender of
municipal
rights.

SEC. 707. A petition for such purpose signed by at least one hundred of the freehold electors of the corporation, shall be presented to the council, and it shall set forth that it is the desire of a majority of the citizens of the corporation to surrender their corporate rights and be reduced to the grade of an incorporated village, and it shall pray that an election be held to determine the sense of the legal voters upon the subject.

Petition there-
for.

SEC. 708. The council shall thereupon fix upon a day and place for holding such election, and shall cause the clerk of the corporation to give notice thereof and the object of such election, in one or more newspapers published, and by posters set up in five or more public places, within the corporation, for the period of not less than twenty days next prior to the day of holding such election.

Notice, &c., of
elect. on.

SEC. 709. The ballots cast at said election shall contain the words "for surrender" or "against surrender," and such election shall be held and conducted in the same manner and by the same officers as other elections in the corporation, and the laws of the state regulating elections shall govern the same so far as applicable.

What the ballots
shall contain.

SEC. 710. The officers holding such election shall, upon the close of the polls and counting out the ballots, forthwith certify and cause to be delivered to the clerk of the corporation, in a sealed envelope having endorsed thereon the nature of its contents, the poll-book and tally sheet of such election.

Poll-books and
tally sheet.

SEC. 711. The clerk, upon receiving such poll-book, shall file and preserve the same in his office until the next regular meeting of the council, and the council at such meeting shall cause the said poll-book to be opened and the result of such election to be entered on its journal.

To be opened,
&c., by council.

SEC. 712. If the majority of votes cast at said election shall be "for surrender," then the council shall, by resolution, declare in effect that, by the determination of legal voters, at a special election held for such purpose, the corporate rights of such corporation are surrendered, and such city is reduced to the grade of an incorporated village, and shall thereafter be known as the incorporated village of —.

Declaration on
affirmative vote.

Certified transcripts to be made, &c.

SEC. 713. The clerk shall thereupon cause two certified transcripts of said resolution to be made out, one of which he shall forthwith deliver to the recorder of the county, and which shall be by him recorded in the proper book of records in his office, and the other shall be, by said clerk, forwarded to the secretary of state.

Officers, &c., to continue until next election.

SEC. 714. All the officers elected or chosen as officers of such corporation, shall continue in office and perform their duties as though no such surrender had been made until the next regular election, and until the officers of the new corporation are elected and qualified, and the wards of such city corporation shall remain and the ordinances thereof shall continue in force, except so far as such ordinances may be inconsistent with the powers granted incorporated villages, until changed or repealed by the council of the new corporation.

Villages may surrender in like manner.

SEC. 715. Incorporated villages may surrender their corporate rights, or may be reduced to the grade of incorporated villages for special purposes, and incorporated villages for special purposes may surrender their corporate rights, in the same manner, so far as applicable, as provided in the preceding sections in this chapter for the surrender of corporate rights by cities of the second class, and the duties of all officers in respect thereto, and the proceedings thereafter, so far as applicable, shall be the same as prescribed in the preceding section. Where the petition is by the electors of an incorporated village for special purposes, it shall be sufficient if signed by fifty of such electors.

Surrender not to affect accrued rights.

SEC. 716. The surrender of corporate rights as herein provided, shall not be held to affect rights accrued or liabilities incurred by such corporations, or the power to settle claims, dispose of property, levy and collect taxes to discharge liabilities incurred, but the same shall remain in full force and effect, as also the corporate character of such city, or incorporated village, or incorporated village for special purposes, in respect thereto, as though no such surrender had been made.

Disposition of taxes, &c. due at time of surrender.

SEC. 717. All taxes which, at the time of such surrender, remain due and unpaid, and all moneys in the treasury of such city, incorporated village, or incorporated village for special purposes, shall be collected and applied to the objects for which the same were raised; and in case any moneys shall remain on hand after the debts and liabilities of the corporation shall have been discharged, the same shall be paid into the treasury of the incorporated village, or incorporated village for special purposes, or into the common school fund of the district embracing such corporation, as the case may be, and all property owned by the corporation, at the time of such surrender, by purchase or otherwise, shall become the property of the new corporation or of the school district, as the case may be, and the title thereto vest accordingly.

CHAPTER LIX.

DUTIES OF STATE OFFICERS AND RIGHT OF VISITATION.

SECTION	SECTION
718. Duty of state officers to ascertain grade of cities, &c.	722. Statement thereof to be submitted in his annual report.
719. Secretary of state to cause publication thereof.	723. Declaration of advancement or reduction of grade to be published.
720. Advance of grade to be submitted to vote.	724. Right of visitation by governor, legislature, &c.
721. Papers to be preserved in office of secretary of state.	

SEC. 718. It shall be the duty of the governor, auditor and secretary of state, or any two of them, at the time of ascertaining the ratio of representation, as required by the eleventh section of the eleventh article of the constitution of this state, to ascertain what cities of the second class are entitled to become cities of the first class, and what incorporated villages are entitled to become cities, and their proper class, and what incorporated villages for special purposes are entitled to become incorporated villages.

Duty of state officers to ascertain grade of cities, &c.

SEC. 719. The secretary of state shall cause a statement thereof to be prepared, which statement he shall cause to be published in some newspaper in Columbus, and also in some newspaper published in each of the cities, incorporated villages, and incorporated villages for special purposes, which shall contain the required population to be advanced in grade, and a copy of said statement shall also be transmitted by the secretary of state to the general assembly, at its next session thereafter.

Secretary of state to cause publication thereof, &c.

SEC. 720. So soon as the said statement has been published, the council of any corporation which, according to such statement, shall have the required population to be advanced to a corporation of the next higher grade, shall have the power, at any time, by ordinance passed for such purpose, to submit to the voters of the corporation, the question whether such corporation shall be advanced to the grade of the next higher corporation; and such election shall be conducted and the proceedings thereafter had, in case the result of the election be in favor of such advancement, in all respects, as provided in chapters three and four of this act.

Advance of grade to be submitted to vote.

SEC. 721. The secretary of state shall receive and preserve in his office all papers transmitted to him in relation to the organization of incorporated villages for special purposes, incorporated villages, the annexation of territory to any city or incorporated village, and the consolidation or advancement or reduction in grade of municipal corporations.

Papers to be preserved in office of secretary of state.

SEC. 722. He shall also submit in his annual report to the general assembly, a statement showing the names, location and limits of each incorporated village for special purposes, and each incorporated village organized under this act during the period embraced in said report; and also all incorporated

Statement thereof to be submitted in his annual report.

villages and cities the limits of which have been increased and the limits so added, and the corporations which have been advanced or reduced in grade during the same period.

Declaration of advancement or reduction of grade to be published.

SEC. 723. Whenever any incorporated village for special purposes has been advanced to the grade of an incorporated village, in the manner provided in chapter three, or any incorporated village has been advanced to the grade of a city of the second class, or any city of the second class has been advanced to the grade of a city of the first class, in the manner provided in chapter four, or any municipal corporation has been reduced to a corporation of a lower degree, the secretary of state, upon requisite evidence of the fact being filed in his office, shall cause a notice to be published in one of the newspapers of Columbus, declaring such municipal corporation has been advanced or reduced in grade as the case may be.

Right of visitation by governor, legislature, &c.

SEC. 724. The general assembly of Ohio by a committee, the governor of the state, the council of the corporation by a committee, the mayor or police judge of the corporation, the judges of any of the courts of this state, and the grand jury of the county, may, at any time, visit and inspect any of the benevolent or correctional institutions established by any municipal corporation, and examine the books and accounts of the same.

CHAPTER LX.

SAVING OF EXISTING RIGHTS.

SECTION

725. Existing rights, &c. not to be changed by this act.

726. Powers and duties in relation to election of justices, &c. to remain until changed by law.

727. Vested powers in relation to benevolent institutions, &c. to continue.

SECTION

728. Officers of corporations to continue during their terms, &c.

729. Ordinances, &c. to continue in force.

730. Acts, courts, &c. not inconsistent with this act, to remain until changed by proper authority.

Existing rights, &c. not to be changed by this act. &c.

SEC. 725. All rights and property, of every kind and description, which were vested in any municipal corporation under its former organization, shall be deemed and held to be vested in the same municipal corporation under the organization made by this act; and no rights or liabilities, either in favor of or against such corporation, existing at the time of taking effect of this act, and no suit or prosecution of any kind, shall be in any manner affected by such change, but the same shall stand or progress as if no such change had been made; provided, that where a different remedy is given in this act, which can be made applicable to any rights existing at the time of its passage, the same shall be deemed cumulative to the remedies before provided, and may be used accordingly.

Powers and duties in relation to election of justices, &c., to remain until changed by law.

SEC. 726. Any municipal corporation which, under its former organization, held or exercised any power or duty, in ordering or directing the election of justices of the peace, constables, or other township officers, shall continue to hold and exercise such power and duty until otherwise provided by law.

SEC. 727. Any municipal corporation in which, under its former organization, any law or charter, regulating any literary, charitable or benevolent institution, vests any power appointing officers of supervision or control, shall continue to hold and possess the like power and authority in every respect.

Vested powers in relation to benevolent institutions, &c. to continue.

SEC. 728. The mayor, trustees, marshal, treasurer, and all officers elected by the people, or appointed by any municipal corporation, and all officers of benevolent and other institutions, now in office, shall remain and continue in their respective offices, and perform the several duties thereof, under the provisions of this act, until the time shall expire for which they shall have been elected or appointed, and until their successors shall be chosen or appointed and qualified; but all such officers shall be subject to such rules and regulations touching their duties and compensation, as the proper authority of any municipal corporation may provide.

Officers of corporations to continue during their terms &c.

SEC. 729. All laws, ordinances and resolutions heretofore lawfully passed and adopted by the trustees or council, shall be, remain, and continue in force, until altered or repealed by the trustees or council established by this act.

Ordinances, &c. to continue in force.

SEC. 730. All special acts in relation to any municipal corporation shall, so far as the same affects the particular police regulations, or local affairs of any municipal corporation, in matters not inconsistent with this act, be and remain in force as by-laws and ordinances of the particular municipal corporation, until altered or repealed by the proper authority thereof. The police courts and mayor's courts heretofore created and established, are hereby continued, with the powers and jurisdictions conferred by this act.

Acts, courts, &c. not inconsistent with the this act, to remain until changed by proper authority.

CHAPTER LXI.

ACTS REPEALED.

SECTION 731. List of acts repealed.

SECTION 732. When this act to take effect.

SEC. 731. The following acts and parts of acts are hereby repealed:

Acts repealed.

An act to provide for the organization of cities and incorporated villages, passed May 3, 1852.

S. & C., p. 1473.

An act to amend an act entitled "an act to provide for the organization of cities and incorporated villages, passed May 3, 1852," passed March 30, 1859.

O. L., vol. 56, p. 88.

An act to amend "an act to provide for the organization of cities and incorporated villages, passed May 3, 1852, and supplementary and amendatory to 'an act to provide for the organization of cities and incorporated villages, passed March 11, A. D. 1853,'" passed April 28, 1854.

O. L., vol. 52, p. 61.

An act to amend an act entitled "an act to provide for the organization of cities and incorporated villages, passed May 3, 1852," passed March 6, 1857.

O. L., vol. 54, p. 22.

O. L., vol. 55, p.
146.

An act to amend an act entitled "an act to amend an act entitled 'an act to provide for the organization of cities and incorporated villages,' passed March 11, 1853," passed April 12, 1858.

O. L., vol. 54, p.
205.

An act supplementary to the act entitled "an act to provide for the organization of cities and incorporated villages, passed May 3, 1852," passed April 17, 1857.

O. L., vol. 53, p.
64.

An act supplementary to an act entitled "an act to provide for the organization of cities and incorporated villages, passed May 3, 1852," passed April 5, 1856.

O. L., vol. 52, p.
29.

An act to amend an act entitled "an act to amend an act entitled an act to provide for the organization of cities and incorporated villages, passed March 11, 1853," passed March 25, 1854.

O. L., vol. 56, p.
113.

An act to amend the forty-fourth section of an act entitled "an act to provide for the organization of cities and incorporated villages, passed May 3, 1852," passed April 2, 1859.

O. L., vol. 61, p.
360.

An act to amend an act entitled "an act to provide for the organization of cities and incorporated villages," passed March 11, 1853.

O. L., vol. 51, p.
376.

An act supplementary to the "act to provide for the organization of cities and incorporated villages, passed May 3, 1852," passed March 12, 1853.

O. L., vol. 56 p.
55.

An act to amend section fifty-four of the act entitled "an act to provide for the organization of cities and incorporated villages, passed May 3, 1852," passed March 4, 1859.

O. L., vol. 52, p.
125.

An act to amend an act entitled "an act to provide for the organization of cities and incorporated villages, passed May 3, 1852," passed May 1, 1854.

O. L., vol. 56, p.
57.

An act amendatory to an act entitled "an act to provide for the organization of cities and incorporated villages, passed May 3, 1852," passed March 18, 1859.

O. L., vol. 52, p.
47.

An act to amend the seventy-first section of the act entitled "an act to provide for the organization of cities and incorporated villages, passed March 1, 1852," passed April 17, 1854.

O. L., vol. 52, p.
47.

An act to amend the sixty-first and seventy-seventh sections of the act entitled "an act to provide for the organization of cities and incorporated villages. And the thirteenth section of an act entitled an act to provide for the organization of cities and incorporated villages, passed March 11, 1853," passed April 29, 1854.

O. L., vol. 53 p.
185.

An act supplementary to an act entitled "an act to provide for the organization of cities and incorporated villages, passed May 3, 1852," passed April 8, 1856.

O. L., vol. 53, p.
57.

An act to amend an act entitled "an act to provide for the organization of cities and incorporated villages, passed May 3, 1852, and the several acts amendatory thereof and supplementary to said acts," passed April 5, 1856.

O. L., vol. 52, p.
79.

An act to amend an act entitled "an act to provide for the organization of cities and incorporated villages, passed May 3, 1852, and the act amendatory thereto, passed March 11, 1853," passed May 1, 1854.

O. L., vol. 56, p.
79.

An act to amend section six of an act to amend the act entitled "an act to provide for the organization of cities and in-

incorporated villages, passed March 11, 1853," passed March 28, 1859.

An act to amend the eighth section of an act entitled "an act to amend the act entitled an act to provide for the organization of cities and incorporated villages," passed March 5, 1856. Q. L., vol. 53, p. 20.

An act to amend the act entitled "an act to amend the act entitled an act to provide for the organization of cities and incorporated villages, passed March 11, 1853, and supplementary to the same," passed March 30, 1857. Q. L., vol. 54, p. 73.

An act to amend an act entitled "an act to provide for the organization of cities and incorporated villages, and the act amendatory thereto, passed March 11, 1853," passed April 29, 1854. Q. L., vol. 52, p. 68.

An act to amend the act entitled "an act to provide for the organization of cities and incorporated villages, and the act amendatory thereto, passed March 11, 1853," passed April 8, 1856. Q. L., vol. 53, p. 110.

An act supplementary to the act "to provide for the organization of cities and incorporated villages, passed May 3, 1852," passed March 12, 1853. S. & C., p. 1535.

An act providing for the certifying of certain elections, passed April 3, 1837. S. & C., p. 1536.

An act supplementary to an act entitled "an act to amend an act to provide for the organization of cities and incorporated villages, passed March 11, 1853," passed April 5, 1854. S. & C., p. 1537.

An act to regulate the making of cellars, excavations and foundations, passed April 28, 1854. S. & C., p. 1538.

An act supplementary to the act entitled "an act to provide for the organization of cities and incorporated villages, passed May 3, 1852, and 'an act to amend the act entitled an act to provide for the organization of cities and incorporated villages,' passed March 11, 1853," passed May 1, 1854. S. & C., p. 1539.

An act supplementary to "an act to provide for the organization of cities and incorporated villages," passed May 1, 1854. S. & C., p. 1540.

An act to amend an act entitled "an act to provide for the organization of cities and incorporated villages, passed May 3, 1852, and the several acts amendatory thereof and supplementary to said acts," passed April 5, 1856. S. & C., p. 1542.

An act to amend a certain act therein named, passed April 8, 1856. S. & C., p. 1543.

An act supplementary to an act entitled "an act supplementary to an act entitled 'an act to provide for the organization of cities and incorporated villages,' passed May 3, 1852," and the acts amendatory thereof and supplementary thereto, passed May 1, 1857. S. & C., p. 1549.

An act supplementary to an act entitled "an act to provide for the organization of cities and incorporated villages," passed May 3, 1852, and the acts amendatory thereof and and supplementary thereto, passed March 10, 1856. S. & C., p. 1550.

An act to amend "an act to provide for the organization of cities and incorporated villages," passed May 2, 1852, passed April 12, 1858. S. & C., p. 1559.

- S. & C., p. 1561. An act amendatory and supplementary to an act passed April 5, 1856, entitled "an act to amend an act entitled an act to provide for the organization of cities and incorporated villages," passed May 3, 1852, and the several acts amendatory thereof and supplementary to said acts, passed April 12, 1858.
- S. & C., p. 1562. An act supplementary to an act to provide for the organization of cities and incorporated villages, passed May 3, 1852, passed February 23, 1858.
- S. & C., p. 1563. An act to authorize incorporated villages to take the enumeration of their inhabitants for the purpose of becoming cities of the second class, passed April 5, 1856.
- S. & C., p. 1563. An act supplementary to an act entitled "an act defining the jurisdiction and regulating the practice of probate courts," passed April 3, 1856.
- S. & C., p. 1563. An act supplementary to an act to provide for the organization of cities and incorporated villages, passed May 3, 1852, passed February 28, 1859.
- S. & C., p. 1566. An act to provide for the appointment of police commissioners in cities of the first class, having a population exceeding eighty thousand inhabitants, and supplementary to an act entitled "an act to provide for the organization of cities and incorporated villages," passed May 3, 1852, and the other acts supplementary and amendatory thereto, passed March 14, 1859.
- S. & C., p. 1567. An act relating to cities of the first class, having a population exceeding eighty thousand inhabitants, passed March 5, 1860.
- S. & C., p. 1562. An act supplementary to the act entitled "an act to provide for the organization of cities and incorporated villages," passed March 11, 1853, passed March 7, 1860.
- S. & C., p. 1563. An act to enable townships and incorporated villages to establish cemeteries common to both, passed March 17, 1860.
- S. & C., p. 721. An act authorizing city councils in cities of the first class, having a population less than eighty thousand and more than thirty-five thousand, to appoint inspectors of provisions and other articles, passed April 4, 1859.
- S. & S., p. 791. An act to amend an act entitled "an act to provide for the organization of cities and incorporated villages," passed May 3, 1852, passed April 16, 1867.
- S. & S., p. 791. An act to amend section twenty-one of "an act to provide for the organization of cities and incorporated villages," passed May 3, 1852, passed May 5, 1868.
- S. & S., p. 792. An act to amend the forty-seventh section of the act entitled "an act to provide for the organization of cities and incorporated villages," passed March 12, 1862.
- S. & S., p. 792. An act to amend an act entitled "an act to provide for the organization of cities and incorporated villages," passed May 3, 1852, passed February 5, 1861.
- S. & S., p. 793. An act to amend section fifty of an act entitled "an act to provide for the organization of cities and incorporated villages," passed May 3, 1852, and to authorize the council of incorporated villages to levy a tax for police purposes, passed February 21, 1867.
- S. & S., p. 793. An act to further amend the sixty-first section of the act

entitled "an act to provide for the organization of cities and incorporated villages," passed May 3, 1852, and amended by an act passed April 29, 1854, passed February 9, 1863.

An act to amend section sixty-nine of an act entitled "an act to provide for the organization of cities and incorporated villages," passed May 3, 1852, as amended March 25, 1862, and to repeal section one of the last named act; also further to define the duties of county treasurers, passed April 29, 1862. S. & S., p. 794.

An act to amend section six (6) of "an act to amend section sixty-nine (69) of an act entitled 'an act to provide for the organization of cities and incorporated villages,' passed May 3d, 1852, as amended March 25th, 1862, and to repeal section one of the last named act; also further to define the duties of county treasurers, passed April 29, 1862," passed May 13, 1868. S. & S., p. 795.

An act supplementary to an act entitled "an act to provide for the organization of cities and incorporated villages," passed May 3, 1852, passed April 10, 1867. S. & S., p. 796.

An act to amend section ninety-one of the act to provide for the organization of cities and incorporated villages, passed May 3, 1852, passed March 28, 1861. Same.

An act to amend section number one hundred and two of the act entitled "an act to provide for the organization of cities and incorporated villages," passed May 3, 1852, passed April 18, 1862. S. & S., p. 797.

An act to amend section eighty-three of an act entitled "an act to provide for the organization of cities and incorporated villages," passed May 3, 1852, passed April 29, 1862. Same.

An act to amend section eighty-four of "an act to provide for the incorporation [organization] of cities and incorporated villages," passed May 3, 1852, passed April 10, 1867. S. & S., p. 798.

An act to amend an act passed April 28, 1854, entitled "an act to amend section twenty-five of an act to provide for the organization of cities and incorporated villages," passed May 3, 1852, passed April 16, 1867. S. & S., p. 799.

An act to amend an act entitled "an act to enable justices of the peace to discharge the duties of police judges in certain cases," passed February 21, 1862, passed April 17, 1867. S. & S., p. 800.

An act to amend an act therein named, passed March 21, 1861. Same.

An act relating to cities of the first class having a population less than eighty thousand, passed March 1, 1861. S. & S., p. 801.

An act to amend an act entitled an act relating to cities of the first class having a population less than eighty thousand, passed March 1, 1861, passed May 3, 1861. S. & S., p. 802.

An act to amend section one of an act entitled "an act supplementary to an act to provide for the organization of cities and incorporated villages," passed April 12, 1865, passed April 3, 1867. Same.

An act to amend an act entitled "an act to amend section four of an act entitled an act supplementary to an act entitled an act to provide for the organization of cities and incorporated villages," passed April 13, 1865, passed February 21, 1866. S. & S.

An act to amend an act entitled "an act supplementary to S. & S.

an act entitled 'an act to provide for the organization of cities and incorporated villages,' passed March 29, 1859, as amended by an act passed March 25, 1864, passed March 23, 1866.

S. & S., p. 807.

An act to amend section six of an act passed March 14, 1859, entitled "an act to provide for the appointment of police commissioners in cities of the first class having a population exceeding eighty thousand inhabitants," and supplementary to an act entitled "an act to provide for the organization of cities and incorporated villages," passed May 3, 1852, and the other acts supplementary and amendatory thereto, and further amended February 17, 1864, passed March 9, 1866.

S. & S., p. 821.

An act to license and regulate pawnbrokers in cities of the first and second class, passed March 13, 1863.

S. & S., p. 822.

An act to authorize the city councils to appoint inspectors of beef cattle, sheep, hogs, poultry, game, milk, milk cows, fresh meat and fresh fish, passed March 11, 1867.

S. & S., p. 823.

An act supplementary to the act to provide for the organization of cities and incorporated villages, passed May 3, 1852, passed April 10, 1861.

Same.

An act supplementary to the act passed May 3, 1852, to provide for the organization of cities and incorporated villages, passed April 10, 1861.

S. & S., p., 824.

An act supplementary to "an act supplementary to the act passed May 3, 1852, to provide for the organization of cities and incorporated villages," passed April 10, 1861, passed March 30, 1864.

Same 834.

An act to amend section one of "an act supplemental to an act passed May 3, 1852, to provide for the organization of cities and incorporated villages," passed March 31st, 1864, passed April 12, 1865.

S. & S., p. 825

An act supplementary to an act passed May 3, 1852, to provide for the organization of cities and incorporated villages, passed March 31, 1864.

S. & S., p. 826.

An act to amend an act entitled "an act to amend an act entitled 'an act to provide for the organization of cities and incorporated villages,' passed May 3, 1852, and the several acts amendatory thereof and supplementary to said act," passed April 5, 1856, passed April 3, 1863.

S. & S., p. 827.

An act to regulate the meetings of councils in cities of the first class, exceeding eighty thousand inhabitants, and to repeal sections 1, 12, 14 and 17 of an act passed March 3d, 1860, entitled "an act relating to cities of the first class, having a population exceeding eighty thousand inhabitants," passed April 4, 1862.

Same.

An act to regulate meetings of councils in cities of the first class, having a population exceeding one hundred thousand inhabitants, and to repeal section two of an act passed April 4, 1862, entitled "an act relating to cities of the first class, having a population exceeding eighty thousand inhabitants," passed May 5, 1868.

S. & S., p. 828

An act to create a board of health in any city, and to prevent the spread of diseases therein, passed March 29, 1867.

An act supplementary to an act entitled "an act to create a board of health in any city to prevent the spread of diseases therein," passed March 29, 1867, passed April 13, 1867. S. & S., p. 831.

An act to arrest the social evil in cities of the first class having over one hundred thousand inhabitants, passed April 16, 1867. Same.

An act defining the duties and powers of the board of city improvements, passed April 27, 1868. Same, 831.

An act supplementary to the act to provide for the organization of cities and incorporated villages, passed May 3, 1852, passed April 3, 1867. S. & S., p. 832.

An act supplementary and amendatory to an act passed April 5th, 1856, entitled "an act to amend an act entitled 'an act to provide for the organization of cities and incorporated villages,' passed May 3, 1852," and the several acts amendatory thereof, and supplementary to said acts, passed March 31, 1864. S. & S., p. 833.

An act supplementary to the act entitled "an act amendatory and supplementary to an act passed April 5, 1856, entitled 'an act to amend an act entitled an act to provide for the organization of cities and incorporated villages,' passed May 3, 1852, and the several acts amendatory thereof and supplementary to said acts, passed March 31, 1864, passed March 20, 1866. S. & S., p. 834.

An act supplementary to an act entitled an act to provide for the organization of cities and incorporated villages, passed April 8, 1856, passed April 5, 1866. Same.

An act to limit the lien of assessments made by municipal corporations to defray the expenses of improvements, passed March 29, 1867. S. & S., p. 837.

An act supplementary to an act entitled "an act supplementary to 'an act to provide for the organization of cities and incorporated villages,' passed April 5, 1866, passed May 15, 1868. S. & S., p. 838.

An act supplementary to an act entitled "an act to provide for the organization of cities and incorporated villages," passed May 3, 1852, passed April 16, 1867. Same.

An act supplementary to an act to provide for the organization of cities and incorporated villages, passed May 3, 1852, passed March 16, 1865. Same.

An act to amend an act passed March 16th, 1865, entitled "an act supplementary to an act to provide for the organization of cities and incorporated villages," passed May 3d, 1852, passed February 15, 1867. S. & S., p. 839.

An act supplementary to the act to provide for the organization of cities and incorporated villages, passed May 3, 1852, and to repeal a certain act therein named, passed April 16, 1867. Same.

An act supplementary to the act to provide for the creation and regulation of incorporated companies in the state of Ohio, passed May 1, 1852, passed April 6, 1866. S. & S., p. 841.

An act to protect the interest of turnpikes and plank roads, passed May 1, 1861. Same.

An act to authorize the town councils of certain incorpor- Same.

ated villages to improve certain highways, passed April 16, 1867.

S. & H., p. 842.

An act supplementary to the act entitled "an act to provide for the organization of cities and incorporated villages," passed May 3, 1852, passed May 13, 1868.

Same.

An act supplementary to "an act to provide for the organization of cities and incorporated villages," passed May 3, 1852, and to regulate and establish the grade of wharves and landing places in cities containing a population exceeding eighty thousand inhabitants, passed January 30, 1863.

S. & H., p. 842.

An act to authorize cities to appropriate land for levees, passed April 10, 1867.

Same.

An act to authorize certain cities to issue bonds for the purpose of protecting themselves from floods, passed February 27, 1867.

S. & H., p. 844.

An act supplementary to an act entitled an act to amend an act entitled an act to provide for the organization of cities and incorporated villages, passed March 11, 1853, and the act amendatory thereof, passed April 29, 1854, passed February 19, 1866.

S. & H., p. 845.

An act supplementary to an act entitled "an act to amend an act entitled an act to provide for the organization of cities and incorporated villages," and the act amendatory thereto, passed March 11, 1853, passed April 29, 1854, passed March 28, 1864.

S. & H., p. 846.

An act to amend an act supplementary to an act entitled "an act to amend an act entitled an act to provide for the organization of cities and incorporated villages," passed March 28, 1864, passed March 29, 1866.

Same.

An act supplemental to an act entitled an act amendatory and supplemental to an act passed April 5, 1856, entitled an act to amend an act entitled an act to provide for the organization of cities and incorporated villages, passed May 3, 1852, and the several acts amendatory thereof and supplemental to said acts, passed April 12, 1858, passed April 4, 1861.

S. & H., p. 847.

An act to amend the first, second, third and fourth sections of an act entitled "an act supplementary to an act relating to cities of the first class having a population exceeding eighty thousand inhabitants," passed March 5, 1860, passed March 14, 1864.

S. & H., p. 849.

An act supplementary to an act relating to cities of the first class having a population exceeding eighty thousand inhabitants, passed March 5, 1860, passed April 12, 1861.

S. & H., p. 850.

An act to authorize the construction of sewers in cities of the second class having over thirteen thousand inhabitants at the last federal census, passed February 9, 1863.

S. & H., p. 851.

An act to amend an "act to authorize the construction of sewers in cities of the second class having over thirteen thousand inhabitants at the last federal census," passed February 9, 1863, passed March 23, 1864.

S. & H., p. 852.

An act to extend the provisions of an act passed March 23, 1864, providing for the construction of sewers to all cities of the second class and incorporated villages containing not less than two thousand inhabitants, passed April 12, 1861, [March 9, 1866.]

An act to extend an act therein named to cities of the first class which have been advanced to the grade of cities of the first class since 1860, and to further regulate the construction of sewers in said cities, passed April 21, 1868. S. & S., p. 853.

An act to amend section one of the act entitled "an act supplementary to an act to provide for the organization of cities and incorporated villages," passed May 3, 1852, and the amendment passed March 11, 1853, and a supplementary act passed April 8, 1856, and supplementary to the act passed April 12, 1858, passed March 11, 1863, passed March 25, 1864. S. & S., p. 854.

An act supplementary to an act to provide for the organization of cities and incorporated villages, passed May 3, 1852, and the amendment passed March 11, 1853, and a supplementary act passed April 8, 1856, and supplementary to the act passed April 12, 1858, passed March 11, 1863. Same.

An act supplementary "to an act to provide for the organization of cities and incorporated villages," passed May 3, 1852, and the amendment passed March 11, 1853, and a supplementary act passed April 8, 1856, and supplementary to the act passed April 12, 1858, and supplementary to the act passed March 11, 1863, and the act passed March 25, 1864, passed April 11, 1865. S. & S., p. 856.

An act to authorize cities of the first class having a population of over one hundred thousand inhabitants to levy a tax for sewerage purposes, passed April 2, 1866. S. & S., p. 857.

An act supplementary to "an act to provide for the organization of cities and incorporated villages," passed May 3, 1852, (S. & C. sec. 26, page 1491) and the amendment passed March 11, 1854, [1853] (S. & C., 1527) and a supplementary act passed April 8th, [5th] 1856, (S. & C., 1542) and supplementary to the act passed April 12th, 1858, (55 v. Stat. 70) and supplementary to the act passed March 11th, 1863, (60 v. Stat. 14) and supplementary to the act passed March 25th, 1864, (61 v. Stat. 64) and the act passed April 11th, 1865, (62 v. Stat. 117; Swan's R. S. 855, 979) passed April 5, 1856. Same.

An act to authorize certain cities of the first class to issue bonds to complete Eggleston avenue sewer, and to levy a tax to pay the same, passed April 13, 1868. S. & S., p. 860.

An act to amend section one of "an act to authorize certain cities of the first class to issue bonds to complete 'Eggleston avenue sewer,' and to levy a tax to pay the same," passed April 13, 1868, passed May 14, 1868. Same.

An act to authorize the cities of the first class having a population of over one hundred thousand inhabitants to levy a tax for sewerage purposes, passed February 21, 1867. Same.

An act supplementary to the act entitled "an act to amend an act to authorize the construction of sewers in cities of the second class having over thirteen thousand inhabitants at the last federal census," passed February 9, 1863; passed March 23, 1864, passed April 16, 1867. S. & S., p. 861.

An act supplementary to "an act to provide for the organization of cities and incorporated villages," passed May 3d, 1852, (S. & C. 1491, Sec. 26) and the amendment passed March 11th, 1854, [1853] (S. & C. 1527) and a supplementary act passed April 8th, [5th] 1856, (S. & C. 1542) and supplemen- S. & S., p. 862.

tary to the act passed April 12th, 1858, (55 v. Stat. 70) and supplementary to the act passed March 11th, 1863, (60 v. Stat. 14) and supplementary to the act passed March 25th, 1864, (61 v. Stat. 64) and the act passed April 11th, 1865, (62 v. Stat. 117); and supplementary to the act passed April 5, 1866, (63 v. Stat. 144; Swan's R. S. 855, 979.) Passed January 26, 1867.

S. & S., p. 863. An act supplementary to an act entitled "an act to provide for the organization of cities and incorporated villages," passed May 3, 1852, passed April 11, 1867.

Same. An act to authorize the council of incorporated villages to levy a tax for sewerage purposes, passed April 13, 1867.

Same. An act to authorize the councils of incorporated villages of over two thousand inhabitants to locate and construct local sewers, passed April 3, 1867.

S. & S., p. 864. An act to authorize city councils of cities of the second class to borrow money and issue bonds for the enlargement and improvement of water-works, passed March 11, 1867.

S. & S., p. 865. An act supplementary to "an act to authorize city councils of cities of the second class to borrow money and issue bonds for the enlargement and improvement of water-works, passed March 11, 1867," passed February 15, 1868.

S. & S., p. 866. An act to authorize city councils of cities of the first class, having a population of over one hundred thousand inhabitants, to issue bonds for water-works purposes, passed April 3, 1868.

Same. An act to authorize cities to extend the water-works beyond the city limits, passed April 6, 1865.

S. & S., p. 867. An act supplementary to "an act to provide for the organization of cities and incorporated villages," passed May 3, 1852, passed March 25, 1863.

S. & S., p. 868. An act supplementary to the act entitled "an act to provide for the organization of cities and incorporated villages," passed May 3, 1852, passed March 7, [9] 1866.

S. & S., p. 869. An act to authorize the establishment of houses of correction, and the confinement of convicted persons therein, passed April 23, [13] 1867.

S. & S., p. 872. An act supplementary to an act entitled 'an act supplementary to the act entitled 'an act to provide for the organization of cities and incorporated villages,' passed May 3, 1852;" passed March 9, 1866, passed April 11, 1868.

Same. An act to provide for the appointment of cemetery directors, passed March 8, 1865.

S. & S., p. 874. An act to authorize town councils of incorporated villages to appropriate lands for cemetery purposes, passed April 8, 1865.

Same. An act to amend sections one and two of an act supplementary to the act entitled "an act to provide for the organization of cities and incorporated villages, as amended March 7, 1860," passed March 29, 1867.

S. & S., p. 876. An act for the protection of certain graveyards and burial grounds, passed April 3, 1867.

S. & S., p. 877. An act to enable certain villages to levy a special tax for cemetery purposes, passed April 16, 1867.

Same. An act to authorize cities of the second class, and the townships in which the same may be situated, to unite in the

purchase and improvement of land for cemetery purposes, passed March 20, 1868.

An act supplementary to an act entitled "an act to provide for the organization of cities and incorporated villages," passed March 11, 1853, and the acts amendatory thereof and supplementary thereto, passed April 3, 1868. S. & S., p. 879.

An act authorizing trustees of cemetery associations to sell and transfer by deed of trust such lands as they hold in trust, to township trustees and the council of incorporated villages, passed May 16, 1868. S. & S., p. 880.

An act to amend section four (4) of an act entitled "an act to enable townships and incorporated villages to establish cemeteries common to both," passed and took effect March 17, 1860, passed May 16, 1868. Same.

An act to authorize certain cities therein named to borrow money for fire purposes, passed April 8, 1868. S. & S., p. 881.

An act to amend section one of an act passed April 9th, 1863, entitled an act supplementary to the "act to provide for the organization of cities and incorporated villages," passed May 3d, 1852, passed March 25, 1864. S. & S., p. 882.

An act supplementary to the "act to provide for the organization of cities and incorporated villages," passed May 3d, 1852, passed April 9, 1863. Same.

An act supplementary to the act entitled "an act prescribing the rates of taxation for state, county, township, city and other purposes," passed April 30, 1862, passed April 16, 1867. Same.

An act to amend a certain act therein named in relation to the purchase of steam or other fire engines, by incorporated villages, passed February 25, 1867. S. & S., p. 883.

An act to authorize incorporated villages in this state to borrow money and levy taxes for the purpose of purchasing fire engines and to build engine houses, passed April 11, 1865. Same.

An act to provide for the erection of a hospital in cities of the first class having a population of over one hundred thousand inhabitants, passed April 6, 1866. S. & S., p. 884.

An act to amend section seven of an act entitled an act to provide for the erection of a hospital in cities of the first class having a population of over one hundred thousand inhabitants, passed April 13, 1867. S. & S., p. 886.

An act supplementary to the "act to provide for the organization of cities and incorporated villages," passed May 3, 1852, passed April 9, 1868. Same.

An act supplementary to an act entitled "an act to provide for the erection of a hospital in cities of the first class having a population of over one hundred thousand inhabitants," passed April 6, 1866, passed May 5, 1868. Same.

An act to authorize city councils of cities of the second class having a population of sixteen thousand and upwards at the last federal census, to borrow money and issue bonds for the purpose of purchasing ground and erecting a building thereon, for a city hall, and other purposes, passed March 30, 1868. S. & S., p. 887.

An act to amend an act entitled "an act to provide for the organization of cities and incorporated villages," passed May 3, 1852, passed April 12, 1865. S. & S., p. 888.

- Same. An act in relation to city parks, and to repeal an act therein named, passed May 8, 1868.
- S. & S., p. 889. An act to authorize cities of the second class therein named to impose a tax for bridge purposes, passed April 5, 1866.
- Same. An act to extend the provisions of an act passed April 5, 1866, entitled "an act to authorize cities of the second class therein named to impose a tax for bridge purposes" (63 v. Stat. 120) to cities of the first class raised to that grade between decennial periods, passed April 13, 1867.
- S. & S., p. 890. An act supplementary to the act entitled "an act to provide for the organization of cities and incorporated villages," passed May 3, 1852, passed March 9, 1866.
- S. & S., p. 891. An act authorizing cities of the second class to create new wards, and define the boundaries thereof, in certain cases, passed March 21, 1863.
- Same. An act supplementary to an act entitled "an act authorizing cities of the second class to create new wards and define the boundaries thereof in certain cases," passed March 21, 1863, passed March 19, 1868.
- S. & S., p. 892. An act supplementary to the act entitled "an act to provide for the organization of cities and incorporated villages," passed May 3, 1852, passed February 15, 1867.
- Same. An act to re-enact and amend "an act supplementary to the act to provide for the organization of cities and incorporated villages," passed May 3, 1852, passed April 14, 1868.
- S. & S., p. 893. An act to provide for the organization, as cities of the first class, of such cities as may have been advanced to the grade of cities of the first class between decennial periods and prior to May, 1867; and also supplementary to the act passed May 3, 1852, entitled "an act to provide for the organization of cities and incorporated villages," and to the several acts supplementary thereto and amendatory thereof, now in force; also further to define the duties of county treasurers, passed March 14, 1867.
- S. & S., p. 896. An act to amend section seven of an act entitled "an act to provide for the organization, as cities of the first class, of such cities as may have been advanced to the grades of cities of the first class, between decennial periods, and prior to May, 1867;" and also supplementary to the act passed May 3, 1852, entitled "an act to provide for the organization of cities and incorporated villages," and to the several acts supplementary thereto and amendatory thereof, now in force; also, further to define the duties of county treasurers, passed April 16, 1868.
- Same. An act supplementary to the "act to provide for the organization of cities and incorporated villages," passed May 3, 1852, passed February 3, 1864, May 5, 1868.
- S. & S., p. 896. An act supplementary to the "act to provide for the organization of cities and incorporated villages," passed May 3, 1852, passed May 5, 1868, February 3, 1864.
- Same. An act supplementary to an "act to provide for the organization of cities and incorporated villages," passed May 3, 1852, passed March 28, 1864.
- S. & S., p. 897. An act to amend the first section of the act "to authorize

cities of the second class to fund their floating debt," passed February 24, 1868, [1865].

An act to authorize cities of the first class having a population of less than one hundred thousand, to fund their floating indebtedness, passed March 31, 1864. S. & S., p. 998.

An act to authorize cities of the first class having a population of less than one hundred thousand, to fund their floating indebtedness, passed April 13, 1867. Same.

An act to enable certain cities to borrow money and levy a tax to pay the same, passed April 11, 1867. S. & S., p. 899.

An act to authorize certain cities of the second class to levy taxes to aid in the erection of court houses, passed April 12, 1867. Same.

An act supplementary to the act to provide for the organization of cities and incorporated villages, passed May 3, 1852, passed February 28, 1861. S. & S., p. 900.

An act to authorize cities of the first class, exceeding one hundred thousand inhabitants, to purchase fuel and levy a tax therefor, passed February 20, 1864. S. & S., p. 901.

An act to amend an act entitled "an act to authorize cities of the first class, exceeding one hundred thousand inhabitants, to purchase fuel and levy a tax therefor," passed February 20, 1864, passed March 9, 1867. Same.

An act to restrain city councils of cities of the first class in certain cases, passed April 7, 1865. S. & S., p. 902.

An act to amend an act entitled "an act to authorize certain cities of the first class to issue bonds for the purchase of gas-works," passed April 6, 1866, passed January 26, 1867. Same.

An act to amend an act entitled "an act to authorize certain cities of the first class to sprinkle the streets," passed April 13, 1865, passed April 6, 1866. S. & S., p. 903.

An act supplementary to an act entitled an act to provide for the organization of cities and incorporated villages, passed May 3, 1852, passed April 16, 1867. S. & S., p. 904.

An act to limit the powers of city councils of cities of the first class having a population of one hundred thousand inhabitants and upwards, passed February 1, 1865. Same.

An act to amend section five of "an act prescribing the rates of taxation for state, county, township, city and other purposes," passed April 30, 1862, as amended February 7, 1866, passed May 14, 1868. S. & S., p. 772.

An act to amend the second and third sections of the act passed April 30, 1862, entitled "an act prescribing the rates of taxation for state, county, township, city and other purposes," passed April 14, 1863. S. & S., p. 779.

Sections one and two of an act entitled "an act to amend an act to provide for and regulate street railroad companies," passed April 10, 1861, and supplementary thereto, passed March 27, 1866. S. & S., p. 137.

An act to amend an act for the better regulation of street railroads, and for other purposes, passed April 17, 1867, passed April 9, 1868. S. & S., p. 139.

An act for the better regulation of street railroads, and for other purposes, passed April 17, 1867. Same.

S. & S., p. 785.

An act supplementary to an act to authorize the erection, improving, enlarging or constructing additions to town halls, and to repeal an act therein named, passed April 2, 1866, passed April 13, 1867.

Same.

An act supplementary to an act passed April 13, 1867, entitled an act supplementary to an act authorizing the erection, improving, enlarging or constructing additions to town halls, and to repeal an act therein named, passed April 2, 1866, passed May 6, 1868.

O. L. vol. 66., p. 26.

An act to amend section sixty-nine of an act entitled an act to provide for the organization of cities and incorporated villages, passed May 3, 1852, as amended March 25, 1862, as amended April 29, 1862, and to repeal section one of the last named act, passed March 15, 1869.

S. & S., p. 722.

An act to authorize cities of the second class to receive donations of library buildings and libraries, and keep up and maintain the same, passed February 24, 1868.

This act to take effect July 1, 1869.

SEC. 731. This act shall take effect and be in force from and after the first day of July 1869.

F. W. THORNHILL,

Speaker of the House of Representatives.

J. C. LEE,

President of the Senate.

Passed May 7, 1869.

AN ACT

To establish a Code of Criminal Procedure for the State of Ohio.

Be it enacted by the General Assembly of the State of Ohio, in manner following—that is to say :

CODE OF CRIMINAL PROCEDURE

FOR THE STATE OF OHIO.

TITLE I.

OF PROCEEDINGS TO PREVENT THE COMMISSION OF CRIME.

SECTION

1. Complaint to keep the peace.
2. Proceedings when the party complained of brought before the magistrate.
3. What shall be done in default of recognizance.
4. When the person complained of shall be discharged.
5. Condition of recognizance.
6. How and when recognizance shall be returned.
7. Proceedings in court of common pleas.
8. What shall be done in default of recognizance.
9. Who shall pay costs.
10. Proceedings when complaining party fails to appear.

SECTION

11. Who shall pay costs when accused discharged.
12. Proceedings when a person creates a disturbance in presence of justice.
13. When search warrant may be issued.
14. Proceedings as to issuing.
15. What warrant shall contain.
16. When warrant may direct search in night time.
17. What disposition to be made of property seized.
18. Same.
19. Same.
20. When property liable for payment of fines, &c.

SECTION 1. Whenever any person shall make complaint in writing upon oath before any justice of the peace, mayor of any city or incorporated village, or police judge, that he has just cause to fear and does fear that another will commit any offense against the person or property of himself, his ward or child, it shall be the duty of the magistrate before whom such complaint is made, to issue a warrant in the name of the state to any constable of the county, commanding him forthwith to arrest the person complained of, and him to take before such magistrate, or any other magistrate named in this section, of the same county, to answer such complaint.

Complaint to
keep the peace.

SEC. 2. When the party complained of shall be brought before the magistrate, he shall be heard in his defense, and all witnesses produced shall be examined upon oath, and if

Proceedings
when the party
complained of
brought before
the magistrate,

upon such examination the magistrate shall be of opinion there is just cause for the complaint, he shall order the person complained of to enter into recognizance, with good and sufficient security, in any sum not less than fifty dollars nor more than five hundred dollars, for his appearance before the court of common pleas on the first day of the next term thereof, and in the mean time that he shall keep the peace and be of good behavior generally, and especially toward the person complaining.

What shall be done in default of recognizance.

SEC. 3. In default of such recognizance and security as provided in the preceding section, the magistrate shall commit the person complained of to the jail of the county, there to remain until discharged by due course of law.

When the person complained of shall be discharged.

SEC. 4. But if the magistrate on the examination shall be satisfied that there is no just cause for the complaint, it shall be his duty to discharge the accused and render judgment in the name of the state against the party complaining for the costs of the prosecution, and the same shall be collected by execution as in civil cases.

Condition of recognizance.

SEC. 5. If any recognizance be taken under the provisions of this title in term time of that court to which the same may be returnable, every such recognizance shall require the person bound thereby to appear forthwith before such court.

How and when recognizance shall be returned.

SEC. 6. All recognizances authorized to be taken as aforesaid, either in term time or vacation of that court to which the same may be returnable, shall be delivered or transmitted by the magistrate taking the same, to the clerk of such court without unnecessary delay and before the commencement of the term of the court next thereafter to be holden, if such recognizance be taken in vacation; but if the same be taken in term time, then it shall be returned forthwith.

Proceedings in court of common pleas.

SEC. 7. The court of common pleas to which any recognizance to keep the peace as aforesaid, shall be returned, shall, upon the appearance of the parties complaining and complained of, examine the witnesses produced upon oath, and may either discharge the accused from his recognizance or may order him to enter into such other and further security as may be just, thereafter to keep the peace and be of good behavior for such term of time as the court may order.

What shall be done in default of recognizance.

SEC. 8. For want of such security the court shall commit the person accused to the jail of said county, there to remain until such order be complied with or he be otherwise discharged by due course of law; but in no case shall a person so failing to give security be confined for a period of time exceeding one year.

Who shall pay costs.

SEC. 9. Whether such person be held to bail or be committed for want thereof, the court shall in either case render judgment against him for the costs of the prosecution, and award execution therefor.

Proceedings when complaining party fails to appear.

SEC. 10. When any person shall have been recognized to the court of common pleas to keep the peace as aforesaid, and the complainant shall fail to prosecute his complaint, the party recognized shall be discharged unless good cause to the contrary be shown.

SEC. 11. If the court of common pleas shall discharge the person accused on examination of the complaint, or because the complainant has failed to appear, said court shall render judgment against the person complaining for the costs of prosecution, and award execution therefor.

Who shall pay costs when accused discharged.

SEC. 12. Every person who, in the presence of any magistrate specified in the first section, shall make an affray or threaten to kill or beat another, or to commit any offense against the person or property of another, and every person who, in the presence of such officer, shall contend with hot and angry words to the disturbance of the peace, may be ordered without process or any other proof, to give such security as above specified in this title, and in case of failure or refusal he may be committed in like manner as above specified.

Proceedings when a person creates disturbance in presence of justice.

SEARCH WARRANT.

SEC. 13. It shall be lawful for any magistrate named in section one to issue warrants to search any house or place—

When search warrant may be issued.

1st. For property stolen, embezzled or obtained under false pretenses or tokens.

2d. For forged or counterfeit coins, stamps, labels, trademarks, bank-bills or other instruments of writing.

3d. For books, pamphlets, ballads or printed papers containing obscene language, prints, pictures or descriptions manifestly tending to corrupt the morals of youth, and intended to be sold or circulated.

4th. For any gaming table, establishment, device or apparatus kept or exhibited for the purpose of unlawful gaming, and for any money or personal property won by unlawful gaming.

SEC. 14. No warrant for search, as described in the preceding section, shall be issued until a complaint in writing, upon oath, has been filed with the magistrate; such complaint shall be signed by the complainant, and particularly describe the house or place to be searched, the person to be seized, and the things to be searched for, and allege substantially the offense in relation thereto, and that the complainant verily believes that such things are there concealed.

Proceedings as to issuing.

SEC. 15. The warrant for search shall be directed to the proper officer, and shall recite by reference to the complaint annexed or otherwise, all the material facts alleged in the complaint, and particularly describe the thing for which the search is to be made, the house or place to be searched, and the person to be seized. It shall command the officer to search such house or place in the day time, for the property or other things; and if found, to seize and bring the same, together with the person to be seized, before the magistrate or some other magistrate of the county having cognizance of the same.

What warrant shall contain.

SEC. 16. If the magistrate is satisfied that there is urgent necessity therefor, the warrant may order the searching of such house or place in the night time.

When warrant may direct search in night time.

SEC. 17. When the warrant is executed by the seizure of the property or things described therein, the same shall be safely kept by the magistrate to be used as evidence.

What disposition to be made of property seized.

Same.

SEC. 18. If, upon the examination, the magistrate shall be satisfied that the offense set forth in the complaint in reference to the property or other thing seized by the officer, has been committed, it shall be his duty either to keep possession of such property or other things, or deliver them to the sheriff of the proper county, there to remain until the case against the offender has been disposed of, or the claimant's right has been otherwise ascertained.

Same

SEC. 19. Upon the conviction of the offender, the property stolen, embezzled or obtained under false pretenses, shall be returned to its owner, and the other things specified, shall be burnt or otherwise destroyed, under the direction of the court; but if the alleged offender shall be discharged, either before the magistrate or the court before which he is recognized to appear, the property or other things shall be returned to the person in whose possession they were found.

When property
liable for pay-
ment of fines,
&c

SEC. 20. When the person in whose possession money or other property won at gambling has been found, shall be convicted of any of the offenses described in sections one and two of the "act more effectually to prevent gambling," passed January 17, 1846, and section nine of the "act for the prevention of gaming," passed March 12, 1831, such money or other property shall be liable to pay any judgment which may be rendered against such person.

TITLE II.

OF ARREST, EXAMINATION, COMMITMENT AND BAIL.

SECTION

21. Who may arrest.
22. Who is a person other than an officer may.
23. Who may issue warrants.
24. When a warrant shall issue.
25. Security for costs.
26. What the warrant shall contain.
27. When person flees, the officer may arrest in any county in state.
28. Proceedings when person charged with offenses escapes.
29. Officer may break outer doors, &c.
30. The officer shall take person arrested before a magistrate.
31. Adjournment of the examination.
32. Recognizance when case adjourned.
33. When person recognized fails to appear.
34. Proceedings when defendant pleads guilty of misdemeanor.
35. Proceeding where there is no plea of guilty.
36. When witnesses may be examined separately.
37. When prisoner to be discharged.
38. Proceedings when there is probable cause to believe prisoner guilty.
39. Recognizance of witness.
40. Same.
41. Where witness refuses to enter into a recognizance.
42. Docket to be kept and transcript to be returned to clerk.
43. Recognizance—its condition, &c.
44. Condition of recognizance when court in session.
45. Prisoner may be held to answer for a higher crime than charged.
46. Proceedings when prisoner fails to give bail.

SECTION

47. Proceedings when recognizance returned to the clerk.
48. Examining court to be held by probate judge—when and how.
49. Court may recognize prisoner and witnesses.
50. Duty of court when prisoner fails to give security.
51. Proceedings to discharge prisoner on recognizance.
52. Deposit of recognizance, and discharge of prisoner.
53. Judges of criminal courts to have concurrent jurisdiction with probate judge.
54. Recognizance may be taken by officer if offense a misdemeanor when shown.
55. Return thereof and the writ.
56. On indictment for felony, court may order the amount of recognizance.
57. Which shall be endorsed on warrant by clerk.
58. Officer to take recognizance accordingly, &c.
59. When and how surety recognizance may deliver up defendant.
60. Delivering up of defendant in vacation.
61. Return of recognizances.
62. Proceedings when party recognised fails to appear.
63. How a forfeited recognizance proceeded upon.
64. Court may remit or reduce penalty—when.
65. Same.
66. What shall not defeat an action on recognizance.

Article I.—Arrest.

SEC. 21. Every sheriff, deputy sheriff, constable, marshal or deputy marshal, watchman or police officer, shall arrest and detain any persons found violating any law of this state, or any legal ordinance of any city or incorporated village, until a legal warrant can be obtained.

Who may arrest.

SEC. 22. Any person not an officer, may, without warrant, arrest any person if a petit larceny or a felony has been committed, and there has been reasonable ground to believe the person arrested guilty of such offense, and may detain him until a legal warrant can be obtained.

When a person other than an officer may.

SEC. 23. The magistrates enumerated in the first section of this code, shall have power to issue process for the apprehension of any person charged with a criminal offense, and to execute the powers and duties conferred in this title.

Who may issue warrants

SEC. 24. Whenever a complaint in writing and upon oath, signed by the complainant, shall be filed with the magistrate, charging any person with the commission of an offense, it shall be the duty of such magistrate to issue a warrant for the arrest of the person accused, if he shall have reasonable grounds to believe that the offense charged has been committed.

When a warrant shall issue.

SEC. 25. When the offense charged is a misdemeanor, the magistrate, before issuing the warrant, may, at his discretion, require the complainant to acknowledge himself responsible for costs in case the complaint shall be dismissed, which acknowledgment of security for costs shall be entered on the docket, and the magistrate on dismissal, may, if in his opinion the complaint was without probable cause, enter a judgment against such complainant for the costs made thereon; and in case said magistrate shall consider such complainant wholly irresponsible, such magistrate may, in his discretion, refuse to issue any warrant unless the complainant procure some responsible security to the satisfaction of such magistrate for said costs in case of such dismissal, and said security shall acknowledge himself so bound, and the magistrate shall enter it on his docket.

Security for costs.

SEC. 26. The warrant shall be directed to any constable of the county, and reciting the accusation, shall command the officer to forthwith take the accused and bring him before the magistrate issuing the warrant, or some other magistrate having cognizance of the case, to be dealt with according to law.

What the warrant shall contain.

SEC. 27. If any person charged as aforesaid with the commission of an offense shall flee from justice, it shall be lawful for the officer in whose hands the warrant for such person has been placed, to pursue and arrest such person in any other county of this state, and him to convey before the magistrate issuing the warrant, or any other magistrate having cognizance of the case, of the county where such offense was committed.

When person flees, the officer may arrest in any county in state.

SEC. 28. If any person charged with an offense shall abscond or remove from the county in which such offense is

Proceedings when person

charged with
offenses escapes.

alleged to have been committed, it shall be lawful for any magistrate of the county in which such person may be found to issue a warrant for the arrest and removal of such person to the county in which the offense is alleged to have been committed, to be there delivered to any magistrate of such county who shall cause the person so delivered, to be dealt with according to law, and the warrant so issued shall have the same force and effect as if issued from the county in which such offense is alleged to have been committed.

Officer may
break open
doors, &c.

SEC. 29. In executing a warrant for the arrest of a person charged with an offense, or a search warrant, the officer may break open any outer or inner door or window of a dwelling house or other building, if after notice of his office and purpose he be refused admittance. But this section is not intended to authorize any officer executing a search warrant to enter any house or building not described in the warrant.

Article II.—Examination.

The officer shall
take person ar-
rested before a
magistrate.

SEC. 30. Whenever any person has been arrested under a warrant as provided in the preceding article, it shall be the duty of the officer making the arrest, to take the person so arrested before the proper magistrate; and the warrant by virtue of which the arrest was made, with a proper return endorsed thereon and signed by the officer, shall be delivered to such magistrate.

Adjournment of
the examination.

SEC. 31. If it shall become necessary for any just cause to adjourn the examination of any person brought before the magistrate as set forth in the preceding section, it shall be lawful for such magistrate to adjourn such examination and commit such person, from time to time, for safe keeping, to the jail of the county, until the cause of delay be removed, and no longer; provided the whole time of such confinement in the jail shall not exceed four days; and provided, also, that the officer having in custody any such person, may, by the written order of the magistrate, detain such person in custody in some secure and convenient place other than the jail, to be designated by said magistrate in his order, not exceeding four days. And it shall be the duty of the officer in whose custody any person shall be detained as above, to provide for the sustenance of such prisoner while in custody.

Recognizance
when case ad-
journed.

SEC. 32. When it shall become necessary to adjourn any trial according to the provisions of the preceding section, the person accused may enter into a recognizance before the magistrate, with good and sufficient security to be approved by the magistrate in such amount as he shall deem reasonable, conditioned for the appearance of such person before said magistrate, at a place and day and hour in said recognizance specified; provided, that such adjournment shall not be for a longer time than twenty days without the consent of the accused; and, provided, that no person shall be let to bail who is charged with an offense not bailable under the constitution of this state.

SEC. 33. If any person recognized, agreeably to section thirty-two shall fail to appear at the time appointed, or shall

otherwise fail to comply with the conditions of the recognizance, the magistrate shall declare the same forfeited, and transmit a transcript of his proceeding in the case, together with the recognizance to the clerk of the proper court; and such proceedings shall be had thereon by said court as shall be deemed expedient, and as if the recognizance had been taken in said court.

When per on recognized fails to appear.

SEC. 34. When any person accused of a misdemeanor shall be brought before a magistrate, on the complaint of the party injured, and shall plead guilty to the charge, the magistrate may, at his discretion, sentence the person to such punishment as he may deem proper, within the limits of the provision defining the offense, and order the payment of costs, or require him to enter into a recognizance to appear at the proper court as provided in this title. If the complaint be not by the party injured, the defendant shall be recognized so to appear.

Proceedings when defendant pleads guilty of misdemeanor

SEC. 35. When the accused is brought before the magistrate and there is no plea of guilty, he shall, as soon as may be, in the presence of the accused, inquire into the complaint.

Proceeding when there is no plea of guilty.

SEC. 36. The magistrate, if requested, or if he see good cause therefor, shall order that the witnesses on both sides shall be examined each one separate from all the others, and that the witnesses for, may be kept separate from the witnesses against the accused during the examination.

When witnesses may be examined separately.

SEC. 37. If, upon the whole examination, it appears that there has been no offense committed, or that there is not probable cause for holding the prisoner to answer the offense, he shall be discharged.

When prisoner to be discharged

SEC. 38. If it shall appear that an offense has been committed, and there is probable cause to believe the prisoner guilty, the magistrate shall bind by recognizance such witnesses against the prisoner as he shall deem necessary to appear and testify before the court having cognizance of the offense on the first day of the next term thereof, and not to depart from such court without leave. If the court is in session, they shall be recognized to appear forthwith, but no recognizance requiring such witnesses to appear at the next term shall be invalid from the fact that no court is in session.

Proceedings when there is probable cause to believe prisoner guilty

SEC. 39. When the magistrate is satisfied that there is reason to believe that any such witness will not perform the condition of his own recognizance, he may, when the offense charged is a felony, order him to recognize with sufficient securities.

Recognizance of witness.

SEC. 40. Any person may recognize for a married woman or minor to appear as a witness, or the magistrate may take the recognizance of either in a sum not exceeding one hundred dollars, which shall be valid notwithstanding the disability of coverture or minority.

Same

SEC. 41. If any witness so required to enter into a recognizance, refuse to comply with such order, the magistrate shall commit him or her to jail until he or she comply with such order, or be otherwise discharged according to law.

Where witness refuses to enter into a recognizance.

SEC. 42. It shall be the duty of every magistrate in criminal proceedings, to keep a docket thereof as in civil cases. All recognizances taken under this title, together with a tran-

Docket to be kept and transcript to be returned to clerk.

script of the proceedings where the defendant is held to answer, shall be certified and returned forthwith to the clerk of the court at which the prisoner is to appear. The transcript shall contain an accurate bill of all the costs that have accrued, and the items composing the same.

Article III.—Bail.

Recognizance—
its condition, &c

SEC. 43. If the offense for which the prisoner is held to answer, be bailable, and the prisoner offer sufficient bail, a recognizance shall be taken for his appearance to answer the charge before the court in which the same is cognizable on the first day of the next term thereof, and not to depart such court without leave, and thereupon he shall be discharged.

Condition of
recognizance
when court in
session.

SEC. 44. If the court to which the accused is recognized to appear is in session, the condition of the recognizance shall be that he shall appear at such court forthwith, and not depart therefrom without leave; but no recognizance requiring the accused to appear at the next term, shall be rendered invalid by the fact that the court is in session.

Prisoner may be
held to answer
for a higher
crime than
charged.

SEC. 45. If on the examination it shall appear to the magistrate that the accused has committed an offense of a higher grade than that charged, he may be held to answer therefor.

Proceedings
when prisoner
fails to give bail.

SEC. 46. If the offense be not bailable, or sufficient bail be not offered, the prisoner shall be committed to the jail of the county in which the same is to be tried, there to remain until he be discharged by due course of law.

Proceedings
when recogni-
zance returned
to the clerk.

SEC. 47. Whenever a transcript or recognizance shall be returned to the clerk, it shall be his duty to enter the cause upon the appearance docket of the court, together with the date of the filing of the transcript and recognizance, the date and amount of the recognizance, the names of the sureties, and the costs; whereupon the same shall be considered as of record in such court, and proceeded on by process issuing out of said court in the same manner as if such recognizance had been entered into before such court; and the recognizance shall be recorded in full in the journal of said court, in the same manner as recognizances taken in said court.

Examining court
to be held by
probate judge—
when and how.

SEC. 48. When any person shall have been committed to jail charged with the commission of any crime or offense, and wishes to be discharged from such imprisonment, the sheriff or jailor shall forthwith give to the probate judge, clerk and prosecuting attorney of the proper county, at least three days' notice of the time of holding an examining court, whose duty it shall be to attend, according to such notice, at the court house; and said judge having examined the witnesses, (the person charged included, if such person shall request an examination), shall discharge the accused, if he find there is no probable cause for holding him to answer; otherwise he shall admit him to bail or remand to jail; and said probate judge shall have power to adjourn from day to day, during such examination, or for such longer period as he shall deem necessary for the furtherance of justice, on good cause shown by the state or accused.

SEC. 49. If said court shall adjudge that said prisoner ought to be held to bail, it shall recognize him in such sum and with such security as he shall deem sufficient, conditioned for the appearance of such person at the next term of the court which shall have cognizance of the offense; and in case such person fails to give security, he shall be remanded to jail. If the court to which the accused is recognized shall be in session, he shall be required to appear forthwith, and not depart without leave; and in all cases where the prisoner is remanded or held to bail, the court shall recognize the witnesses against the accused to appear at the proper court, as provided in this title.

Court may recognize prisoner and witnesses.

SEC. 50. The examining court, if the prisoner fails to give security, shall order the clerk to enter on the journal of the court to which the defendant is recognized, to appear in what sum and with what securities he may be recognized; and at any time thereafter, upon the prisoner giving such security as required by the examining court, any judge of the superior court, court of common pleas, or the probate judge of the proper county may discharge him.

Duty of court when prisoner fails to give security.

SEC. 51. When any person charged with the commission of any bailable offense, shall be confined in jail, whether committed by warrant under the hand and seal of any judge or magistrate, or by the sheriff or coroner, under any warrant upon indictment found, it shall be lawful for any judge of the supreme court, judge of the common pleas within his district, or probate judge within his county, to admit such person to bail, by recognizing such person in such sum and with such securities as to such judge shall seem proper, conditioned for his appearance before the proper court, to answer the offense wherewith he may be charged; and for taking such bail, the judge may, by his special warrant, under his hand and seal, require the sheriff or jailor to bring such accused before him at the court house of the proper county, at such time as in such warrant the judge may direct; provided, that in fixing the amount of bail, the judge admitting to the same, shall be governed in the amount and quality of bail required by the direction of the court of common pleas in all cases where said court of common pleas shall have made any order or direction in that behalf.

Proceedings to discharge prisoner on recognizance.

SEC. 52. In all cases, when a judge or examining court shall recognize a prisoner under the provisions of the four preceding sections, he shall forthwith deposit with the clerk of the proper court, the recognizance so taken, and also a warrant directed to the jailor requiring him to discharge the prisoner.

Deposit of recognizance, and discharge of prisoner.

SEC. 53. The judge of the court of criminal jurisdiction in each county in this state, shall have concurrent jurisdiction with the probate judge of such county, in all matters wherein by the last five sections jurisdiction is conferred on such probate judge.

Judges of criminal courts to have concurrent jurisdiction with probate judge.

SEC. 54. When any sheriff or other officer shall be charged with the execution of a warrant issued on any indictment for a misdemeanor, he shall, during the vacation of the court from which the writ issued, have authority to take the recog-

Recognizance may be taken by officer if offense a misdemeanor when shown.

nizance of the person so indicted, together with sufficient sureties, resident and freeholders in the county from which such writ issued, in a sum of not less than fifty nor more than five hundred dollars, conditioned for the appearance of such person on the first day of the next term of such court.

Return thereof
and the writ

SEC. 55. The sheriff or other officer shall return the said writ according to the command thereof, with the name of the surety or sureties, together with the recognizance taken as aforesaid; and the recognizance so taken and returned, shall be filed and recorded by the clerk of the court to which the same was returned, and may be proceeded on in the same way as if such recognizance had been taken in said court during term time.

On indictment
for felony, court
may order the
amount of
recognizance

SEC. 56. When any person shall have been indicted for a felony, and the person so indicted shall not have been arrested or recognized to appear before the court, the court may, at their discretion, make an entry of the cause on their journal, and may order the amount in which the party indicted may be recognized for his appearance by any officer charged with the duty of arresting him.

Which shall be
endorsed on war-
rant by clerk.

SEC. 57. The clerk issuing a warrant on such an indictment, shall indorse thereon the sum in which the recognizance of the accused was ordered, as aforesaid, to be taken.

Officer to take
recognizance ac-
cordingly, &c.

SEC. 58. The officer charged with the execution of the warrant aforesaid, shall take the recognizance of the party accused in the sum ordered as aforesaid, together with good and sufficient sureties, conditioned for the appearance of the accused at the return of the writ before the court out of which the same issued; and such officer shall return such recognizance to the said court, to be recorded and proceeded on as provided in this article.

When and how
surety recogni-
zance may deliv-
er up defendant

SEC. 59. When any person who is surety in a recognizance for the appearance of any defendant before any court in this state desires to surrender the defendant, he shall, by delivering the said defendant in open court, be discharged from any further responsibility on said recognizance; and the said defendant shall be committed by the court to the jail of the county, unless he shall give a new recognizance, with good and sufficient sureties, in such amount as the court may determine, conditioned as the original recognizance.

Delivering up of
defendant in va-
cation.

SEC. 60. When the surety desires to deliver up the defendant in vacation, the surrender shall be made of such defendant to any judge of the court before which he shall have been recognized to appear, or to the probate judge of the proper county, and shall be made in the court house of such county; and upon such surrender being made, it shall be lawful for the judge to make out, sign and deliver to the sheriff, or some constable of the county, a warrant for the commitment of such defendant to the jail of the county, unless he shall immediately enter into a recognizance, with sufficient sureties, according to the original recognizance, which recognizance said judge shall take and approve, and return to the clerk of the court to which the defendant was originally recognized, to be proceeded on the same as if it had been taken in term time.

SEC. 61. All recognizances taken during vacation by any judge or other officer authorized to take them, shall be signed and sealed by the parties, and certified to by the officer taking the same.

Return of recognizances

SEC. 62. When any person under recognizance in any criminal prosecution, either to appear and answer or testify in any court, shall fail to perform the condition of such recognizance, his default shall be recorded, and the recognizance forfeited in open court.

Proceedings when party recognized fails to appear.

SEC. 63. Whenever such recognizance shall have been forfeited as aforesaid, it shall be the duty of the prosecuting attorney of the county in which the recognizance was taken, to prosecute the same by civil action for the penalty thereof; and such action shall be governed by the provisions of the code of civil procedure so far as the same may be applicable.

How a forfeited recognizance proceeded upon.

SEC. 64. The court in which the action for the penalty of any forfeited recognizance is brought, may remit or reduce any part or the whole of such penalty, and may render judgment thereon according to the circumstances of the case and the situation of the party, and upon such terms and conditions as to such court shall seem just and reasonable.

Court may remit or reduce penalty —when.

SEC. 65. Whenever any judgment shall have been rendered against the defendants for the whole or any part of the penalty of a forfeited recognizance, as aforesaid, the court rendering said judgment shall have power to remit or reduce the amount thereof, when it shall be made to appear that after the rendition thereof the accused had been arrested and surrendered to the proper court to be tried on such charge.

Same.

SEC. 66. No action brought on any recognizance, as mentioned in section sixty-three, shall be barred or defeated, nor shall judgment thereon be reversed, by reason of any neglect or omission to note or record the default, nor by reason of any defect in the form of the recognizance, if it sufficiently appear from the tenor thereof at what court the party or witness was bound to appear, and that the court or officer before whom it was taken was authorized by law to require and take such recognizance.

What shall not defeat an action on recognizance.

TITLE III.

OF THE GRAND JURY AND ITS PROCEEDINGS.

SECTION

67. Clerk shall make out two lists containing statements of the person required to appear at court—when and how.
68. The court shall appoint a foreman.
69. Oath to foreman.
70. Oath to other jurors.
71. Charge of the court.
72. What the grand jury shall do.
73. The prosecuting attorney may appear before the grand jury.
74. The clerk to issue subpoenas for witnesses.
75. Oath to be administered to witnesses in open court.
76. Proceedings when witness before grand jury refuses to testify.
77. Same.
78. Court may appoint grand juror in case

SECTION

- of death, &c. of any one of the panel.
79. A new grand jury may be summoned, &c.
80. The facts that indictments have been found to be kept secret.
81. No grand juror may testify as to what transpired in jury room.
82. How many must agree to the finding of a bill, &c.
83. When the name of the prosecuting witness to be indorsed on indictment.
84. Proceedings in such case.
85. The grand jury to visit the jail.
86. How indictment to be presented to the court.
87. When a person not indicted to be discharged.

Clerk shall make out two lists containing statements of the person required to appear at court — when and how.

SEC. 67. Before the first day of each term of a court at which a grand jury shall be summoned to appear, the clerk of such court shall make out two lists, on which he shall enter the names of all the persons who appear by the returns of the magistrates to have been either committed or bailed for an offense during the vacation of such court, the name of the magistrate who committed or bailed, and distinguishing whether such person was committed or bailed; one of these lists shall be delivered by the judge to the foreman of the grand jury, and the other, together with all the transcripts and other documents returned by the magistrates, shall be delivered to the prosecuting attorney.

The court shall appoint a foreman.

SEC. 68. When the grand jury shall be empaneled in the manner provided by law, the court shall appoint one of the number foreman.

Oath to foreman.

SEC. 69. When the foreman shall be appointed, an oath or affirmation shall be administered to him in the following words: "Saving yourself and fellow jurors, you, as foreman of this grand inquest, shall diligently inquire, and true presentment make, of all such matters and things as shall be given you in charge or otherwise come to your knowledge touching the present service. The counsel of the state, your own and your fellows, you shall keep secret, unless called on in a court of justice to make disclosures. You shall present no person through malice, hatred or ill-will, nor shall you leave any person unpresented, through fear, favor or affection, or for any reward or hope thereof; but in all your presentments you shall present the truth, the whole truth, and nothing but the truth, according to the best of your skill and understanding."

Oath to other jurors.

SEC. 70. Thereupon the following oath or affirmation shall be administered to the other grand jurors: "The same oath which A. B., your foreman, hath now taken before you on his part, you, and each of you, shall well and truly observe and keep on your respective parts."

Charge of the court.

SEC. 71. The grand jury, after being sworn, shall be charged as to their duty by the judge, who shall call their attention particularly to the obligation of secrecy which their oaths impose, and to such offenses as he is by law required to specially charge.

What the grand jury shall do.

SEC. 72. After the charge of the court the grand jury shall retire with the officer appointed to attend to them, and shall proceed to inquire of and present all offenses whatever, committed within the limits of the county in and for which they were empaneled and sworn or affirmed.

The prosecuting attorney may appear before the grand jury.

SEC. 73. The prosecuting attorney or the assistant prosecuting attorney shall be allowed at all times to appear before the grand jury, for the purpose of giving information relative to any matter cognizable by them, or giving them advice upon any legal matter when they may require it, and he may be permitted to interrogate witnesses before them when they or he shall deem it necessary; but no such attorney, nor any other person, shall be permitted to be present during the expression of their views or the giving of their votes on any matter before them.

SEC. 74. Whenever required by the grand jury, or the prosecuting attorney, the clerk of the court in which such jury is empaneled shall issue subpoenas and other process to bring witnesses to testify before such grand jury.

The clerk to issue subpoenas for witnesses.

SEC. 75. Before any witness shall be examined by the grand jury, an oath or affirmation shall be administered to him by the clerk, which shall be certified to by the court, and the certificate thereof shall be delivered to the witness, who shall present the same to the foreman of the grand jury when he is admitted for examination.

Oath to be administered to witnesses in open court.

SEC. 76. If any witness appearing before a grand jury shall refuse to answer any interrogatories during the course of his examination, the fact shall be communicated to the court in writing, in which the question refused to be answered shall be stated, together with the excuse for the refusal, if any be given by the person interrogated; and the court shall thereupon determine whether the witness is bound to answer or not, and the grand jury shall be immediately informed of the decision.

Proceedings when witness before a grand jury refuses to testify.

SEC. 77. If the court determine that the witness is bound to answer, and he persist in his refusal, he shall be brought before the court, who shall proceed in the same manner as if the witness had been interrogated and refused to answer in open court.

Same.

SEC. 78. In case of the sickness, death, discharge or non-attendance of any grand juror, after the grand jury shall be affirmed or sworn, it shall be lawful for the court, at their discretion, to cause another to be sworn or affirmed in his stead.

Court may appoint grand juror in case of death, &c., of any one of the panel.

SEC. 79. After the discharge of the grand jury, it shall be lawful for the court, when it shall be deemed necessary, to order the sheriff to call together a new grand jury from the bystanders or neighboring citizens, of fifteen good and lawful men, having the qualifications of grand jurors, who shall be returned and sworn or affirmed, and shall proceed in the same manner in all respects as provided by law in respect to grand juries.

A new grand jury may be summoned, &c.

SEC. 80. No grand juror or officer of the court shall disclose that an indictment has been found against any person not in custody or under bail, except by the issuing of process, until the indictment is filed and the case docketed.

The facts that indictments have been found to be kept secret.

SEC. 81. No grand juror shall be allowed to state or testify in any court in what manner he or other members of the grand jury voted on any question before them, or what opinion was expressed by any juror in relation to such question.

No grand juror may testify as to what transpired in jury room.

SEC. 82. At least twelve of the grand jurors must concur in the finding of an indictment; when so found, the foreman shall endorse on such indictment the words "A true bill," and subscribe his name thereto as foreman.

How many must agree to the finding of a bill, &c.

SEC. 83. No indictment for any misdemeanor shall be found a true bill by any grand jury, unless the name of the prosecuting witness shall be endorsed thereon, except such bill be found upon testimony sworn and sent to the grand jury by the order of the court, at the request of the prosecuting attorney or of the grand jury, in which case the fact that

When the name of the prosecuting witness to be indorsed on indictment.

the bill was so found, shall be endorsed on the bill, instead of the name of the prosecutor.

Proceedings in such case.

SEC. 84. In all cases where the name of the prosecuting witness is endorsed on the bill, and the same is found a true bill by the grand jury, and upon trial the defendant is acquitted, the prosecuting witness shall be liable for costs; and the court, at the term at which such acquittal shall take place, or at any subsequent term, shall render judgment against such prosecuting witness for such costs, unless the court shall be of opinion that there were reasonable grounds for instituting the prosecution.

The grand jury to visit the jail.

SEC. 85. The grand jury shall, once at each term of the court at which they may be in attendance, visit the county jail, examine its state and condition, and inquire into the discipline and treatment of the prisoners, their habits, diet and accommodations; and it shall be their duty to report to said court, in writing, whether the rules prescribed by the judge have been faithfully kept and observed, or whether any of the provisions as to the act for the regulation of county jails have been violated, pointing out particularly in what said violation, if any, consists.

How indictment to be presented to the court.

SEC. 86. Indictments found by a grand jury, shall be presented by their foreman to the court, and shall be filed with the clerk, who shall endorse thereon the day of their filing, and shall enter each case upon the appearance docket, and also upon the trial docket of the term, as soon as the parties indicted have been arrested; and at the end of the term the clerk shall deliver the indictments undisposed of to the prosecuting attorney for safe keeping.

When a person not indicted to be discharged.

SEC. 87. Any person held in jail, charged with an indictable offense, shall be discharged, if he be not indicted at the term of the court at which he is held to answer, unless it shall appear to the satisfaction of the court that the witnesses on the part of the state have been enticed or kept away, or are detained and prevented from attending court by sickness or some inevitable accident.

TITLE IV.

OF INDICTMENTS AND PROCESS THEREON.

SECTION

88. Proceedings when two indictments against same defendant for the same offense.
89. How person indicted for receiving stolen goods.
90. What defects in an indictment shall not be fatal.
91. What is variance.
92. What are sufficient allegations in indictments for manslaughter.
93. What shall be sufficient allegation in indictment for forgery, &c.
94. What is a sufficient description in indictments in certain cases.
95. Description of instruments in other cases.

SECTION

96. How an intent to defraud shall be alleged.
97. How joint ownership of property alleged.
98. In indictment as to election—how election to be averred.
99. Count for embezzlement, &c., in indictments for larceny.
100. How bank bills, &c., to be described.
101. When a warrant on an indictment to be issued, &c.
102. Warrant when party accused lives out of the county in which he was indicted.

SEC. 88. If there be at any time pending against the same defendant two or more indictments for the same criminal act, the prosecuting attorney shall be required to elect upon which he will proceed; and upon trial being had thereon, the remaining indictment or indictments shall be quashed.

Proceedings when two indictments against same defendant for the same offense.

SEC. 89. Whenever any person shall be liable to prosecution as the receiver of any personal property that shall have been feloniously stolen, taken or embezzled, he may be indicted in any county where he received or had such property, notwithstanding the theft was committed in another county.

How person indicted for receiving stolen goods

SEC. 90. No indictment shall be deemed invalid, nor shall the trial, judgment or other proceedings be stayed, arrested, or in any manner affected; first, by the omission of the words, "with force and arms," or any words of similar import; or second, by omitting to charge any offense to have been contrary to a statute or statutes; or, third, for the omission of the words, "as appears by the record," nor for omitting to state the time at which the offense was committed, in any case where time is not of the essence of the offense; nor for stating the time imperfectly; nor for want of a statement of the value or price of any matter or thing, or the amount of damages, or injury, in any case where the value, or price, or the amount of damages or injury, is not of the essence of the offense; nor for the want of an allegation of the time or place of any material fact, when the time and place have once been stated in the indictment; nor that dates and numbers are represented by figures; nor for an omission to allege that the grand jurors were empaneled, sworn or charged; nor for any surplusage or repugnant allegation when there is sufficient matter alleged to indicate the crime or person charged; nor for want of the averment of any matter not necessary to be proved; nor for any other defect or imperfection which does not tend to the prejudice of the substantial rights of the defendant upon the merits.

What defects in an indictment shall not be fatal.

SEC. 91. Whenever on the trial of any indictment for any offense, there shall appear to be any variance between the statement in such indictment, and the evidence offered in proof thereof in the christian name or surname, or both christian name and surname or other description whatever of any person whomsoever therein named or described, or in the name or description of any matter or thing whatsoever therein named or described, such variance shall not be deemed ground for an acquittal of the defendant, unless the court before which the trial shall be had, shall find that such variance is material to the merits of the case or may be prejudicial to the defendant.

What is variance.

SEC. 92. In any indictment for manslaughter, it shall not be necessary to set forth the manner in which, or the means by which, the death was caused; but it shall be sufficient to charge that the defendant did unlawfully kill and slay the deceased.

What are sufficient allegations in indictments for manslaughter.

SEC. 93. In any indictment for falsely making, altering, forging, printing, photographing, uttering, disposing of or putting off any instrument, it shall be sufficient to set forth the purport and value thereof.

What shall be sufficient allegation in indictment for forgery, &c.

What is a sufficient description in indictments in certain cases.

SEC. 94. In any indictment for engraving or making the whole or any part of any instrument, matter or thing, or for using or having the unlawful custody or possession of any plate or other material upon which the whole or any part of any instrument, matter or thing shall have been engraved or made, or for having the unlawful custody or possession of any paper upon which the whole or any part of any instrument, matter or thing shall have been made or printed, it shall be sufficient to describe such instrument, matter or thing by any name or designation by which the same may be usually known.

Description of instruments in other cases

SEC. 95. In all other cases, whenever it shall be necessary to make any averment in any indictment as to any instrument, whether the same consists wholly or in part of writing, print or figures, it shall be sufficient to describe such instrument by any name or designation by which the same may be usually known, or by the purport thereof.

How an intent to defraud shall be alleged.

SEC. 96. It shall be sufficient in any indictment where it shall be necessary to allege an intent to defraud, to allege that the party accused did the act with intent to defraud without alleging an intent to defraud any particular person or body corporate, and on the trial of any such indictment, it shall not be necessary to prove an intent to defraud any particular person, but it shall be sufficient to prove that the party accused did the act charged with the intent to defraud.

How joint ownership of property alleged.

SEC. 97. When any offense shall be committed upon, or in relation to any property belonging to several partners or owners, the indictment for such offense shall be deemed sufficient if it allege such property belonged to any one or more of such partners or owners, without naming all of them.

In indictment as to election—how election to be averred.

SEC. 98. When an offense shall be committed in relation to any election, an indictment for such offense shall be deemed sufficient if it allege that such election was authorized by law, without stating the names of the officers holding the election, or the persons voted for, or the offices to be filled at such election.

Count for embezzlement, &c., in indictments for larceny.

SEC. 99. An indictment for larceny may contain also a count for obtaining the same property by false pretenses, or a count for embezzlement thereof, and for receiving or concealing the same property, knowing it to have been stolen; and the jury may convict of either offense, and may find all or any of the persons indicted guilty of either of the offenses charged in the indictment.

How bank bills, &c. to be described.

SEC. 100. In every indictment in which it shall be necessary to make any averment as to any money, or bank bill or notes, United States treasury notes, postal and fractional currency, or other bills, bonds or notes, issued by lawful authority and intended to pass and circulate as money, it shall be sufficient to describe such money or bills, notes, currency or bonds, simply as money, without specifying any particular coin, note, bill or bond; and such allegation shall be sustained by proof of any amount of coin or of any such note, bill, currency or bond, although the particular species of coin of

which such amount was composed, or the particular nature of such note, bill, currency or bond shall not be proved.

SEC. 101. A warrant may be issued in term time or in vacation of court on an indictment found in any county, and when directed to the sheriff of the county in which such indictment was found, it shall be lawful for such officer to arrest the accused named in such warrant, in any county where he may reside, and commit him to jail or hold him to bail as provided in this code.

When a warrant on an indictment to be issued, &c.

SEC. 102. When the party accused shall reside out of the county in which such indictment was found, it shall be lawful to issue a warrant thereon, directed to the sheriff of the county where the accused shall reside or may be found; and it shall be the duty of such officer to arrest the accused and convey him to the county from which such writ was issued, and there commit him to the jail of said county, or hold him to bail, as provided in the preceding section.

Warrant when party accused lives out of the county in which he was indicted.

TITLE V.

OF THE PROCEEDINGS BETWEEN THE INDICTMENT AND TRIAL.

Article I.—Of Pleas to the Indictment.

SECTION

- 103. Accused to have copy of indictment.
- 104. When accused to be brought into court, and proceedings thereupon.
- 105. Same.
- 106. Exception to an indictment.
- 107. Motion to quash.
- 108. Plea in abatement.
- 109. Demurrer.
- 110. Accused not to be discharged when a motion to quash is adjudged in his favor.
- 111. When defects waived.
- 112. Misnomer.
- 113. Prosecuting attorney may demur or reply to a plea in abatement.

SECTION

- 114. After demurrer accused may plead not guilty.
- 115. How accused to be arraigned.
- 116. Pleas in bar.
- 117. Pleas in bar and abatement to be in writing.
- 118. How arraigned.
- 119. Proceedings on plea of guilty.
- 120. Proceedings on plea of not guilty.
- 121. Venue to be changed when an impartial trial cannot be had.
- 122. Proceedings when venue is changed.
- 123. Same.
- 124. Same.

SEC. 103. It shall be the duty of the clerk of the court in which an indictment is filed, within three days after the same shall have been filed, to make a copy thereof and deliver the same to the sheriff, whose duty it shall be to serve the same on the accused; and no one shall be, without his assent, arraigned or called on to answer to any indictment until one day shall have elapsed after the copy has been served upon him as aforesaid.

Accused to have copy of indictment.

SEC. 104. After a copy of the indictment has been served upon the defendant, the accused shall be brought into court; and if he be without counsel, and unable to employ any, it shall be the duty of the court to assign him counsel, at his

When accused to be brought into court, and proceedings thereupon.

request, not exceeding two, who shall have free access to the accused at all reasonable hours.

Same.

SEC. 105. Thereupon the court shall allow the accused a reasonable time to examine the indictment and prepare exceptions thereto.

Exception to an indictment.

SEC. 106. The accused may except to an indictment by, first, a motion to quash; second, a plea in abatement; third, a demurrer.

Motion to quash.

SEC. 107. A motion to quash may be made in all cases, when there is a defect apparent upon the face of the record, including defects in the form of the indictment or in the manner in which an offense is charged.

Plea in abatement.

SEC. 108. A plea in abatement may be made when there is a defect in the record, which is shown by facts extrinsic thereto.

Demurrer.

SEC. 109. The accused may demur when the facts stated in the indictment do not constitute an offense punishable by the laws of this state, or when the intent is not alleged, when proof of it is necessary to make out the offense charged.

Accused not to be discharged when a motion to quash is adjudged in his favor.

SEC. 110. When a motion to quash, or a plea in abatement has been adjudged in favor of the accused, he may be committed or held to bail in such sum as the court may require for his appearance at the first day of the next term of said court.

When defects waived.

SEC. 111. The accused shall be taken to have waived all defects which may be excepted to by a motion to quash, or a plea in abatement, by demurring to an indictment or pleading in bar, or the general issue.

Misnomer.

SEC. 112. If the accused shall plead in abatement that he is not indicted by his true name, he must plead what his true name is, which shall be entered on the minutes of the court, and after such entry, the trial and all other proceedings on the indictment shall be had against him by that name, referring also to the name by which he is indicted, in the same manner in all respects as if he had been indicted by his true name.

Prosecuting attorney may demur or reply to a plea in abatement.

SEC. 113. To any plea in abatement, the prosecuting attorney may demur if it is not sufficient in substance, or he may reply, setting forth any facts which may show that there is no defect in the record as charged in the plea.

After demurrer accused may plead not guilty.

SEC. 114. After a demurrer to an indictment has been overruled, the accused may plead "not guilty," or in bar.

Article II.—Of the Arraignment.

How accused to be arraigned.

SEC. 115. The accused shall be arraigned by reading to him the indictment, and the court shall ask him, "are you guilty of the offense therein charged, or are you not guilty?"

Pleas in bar.

SEC. 116. The accused may then offer a plea in bar to the indictment that he has before had judgment of acquittal, or been convicted or been pardoned for the same offense; and to this plea the prosecuting attorney may reply that there is no record of such acquittal or conviction, or that there has been no pardon; and on the trial of such issue to a jury the accused must produce the record of such conviction or

acquittal, or the pardon, and prove that he is the same person charged in the record, or mentioned in the pardon ; and shall be permitted to adduce such other evidence as may be necessary to establish the identity of the offense.

SEC. 117. No plea in bar or abatement shall be received by the court unless it be in writing, signed by the accused, and sworn to before some competent officer.

Plea in bar and abatement to be in writing.

SEC. 118. If the issue on the plea in bar be found against the defendant, or if upon the arraignment the accused offer no plea in bar, he shall answer the question propounded by the court, by pleading "guilty" or "not guilty"; but if he answer evasively, or stand mute, he shall be taken to have pleaded "not guilty."

How arraigned.

SEC. 119. If the accused plead "guilty," the plea shall be recorded on the indictment, and the accused shall be placed in the custody of the sheriff until sentence.

Proceedings on plea of guilty.

SEC. 120. If the accused plead "not guilty," the plea shall be entered on the indictment, and the prosecuting attorney shall, under the direction of the court, designate a day for trial, which shall be a day of the term at which the plea is made, unless the court for good reasons continue the case to a subsequent term.

Proceedings on plea of not guilty.

Article III.—Of Change of Venue.

SEC. 121. All criminal cases shall be tried in the county where the offense was committed, unless it shall appear to the court by affidavits that a fair and impartial trial cannot be had therein ; in which case the court may direct the person accused to be tried in some adjoining county.

Venue to be changed when an impartial trial cannot be had.

SEC. 122. When the venue is changed to an adjoining county, the clerk of the county in which the indictment was found, shall make out a certified transcript of all the proceedings in the case, which, together with the original indictment, he shall transmit to the clerk of the court to which the venue is changed, and the trial shall be conducted in all respects as if the offender had been indicted in the county to which the venue has been changed. The costs accruing from a change of venue shall be paid by the county in which the indictment was found.

Proceedings when venue is changed.

SEC. 123. When a court has ordered a change of venue, a warrant shall be issued by the clerk, directed to the sheriff, commanding him safely to convey the prisoner to the jail of the county where he is to be tried, there to be safely kept by the jailer thereof, until discharged by due course of law.

Same.

SEC. 124. When a change of venue is allowed, the court shall recognize the witnesses on the part of the state to appear before the court in which the prisoner is to be tried.

Same.

TITLE VI.

OF THE TRIAL AND THE PROCEEDINGS INCIDENT THERETO.

SECTION

125. Venire facias to issue for a jury in capital cases.
 126. Service and return of venire.
 127. Proceedings where two or more are indicted for a capital offense.
 128. Peremptory challenges for the accused.
 129. Copy of panel to be given the accused.
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 134. Causes for challenge.
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 136. Each to be allowed peremptory challenge when two or more tried.
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145. How the examination shall proceed.
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 163. Proceedings of the court on application to discharge under either of the two preceding sections.

Article 1.—Of Juries.

Venire facias to issue for a jury in capital cases.

SEC. 125. When any person charged with the commission of an offense, the punishment whereof is capital, has been indicted, arraigned, and pleaded not guilty, it shall be the duty of the clerk of the court where the trial may be, at the instance of the prosecuting attorney, to make out a venire facias, directed to the sheriff, commanding him to summon thirty-six jurors, being electors and householders, and having the qualifications of jurors as otherwise provided by law, to appear before the court at the day fixed for the trial, to be therein specified, of the person so charged, and the venire facias shall be served at least ten days before the day of trial.

Service and return of venire.

SEC. 126. The sheriff shall serve and return the venire as is provided for the service and return of such writs in other cases.

Proceedings where two or more are indicted for a capital offense.

SEC. 127. In all cases where two or more persons are jointly indicted for the commission of an offense the punishment whereof is capital, each person shall be separately tried, and the clerk shall make out a venire facias, as provided in section one hundred and twenty-five, for the trial of each person so indicted.

Peremptory challenges for the accused.

SEC. 128. Every person indicted, as aforesaid, and who has pleaded not guilty, shall be entitled to challenge twenty-three of the jurors, peremptorily.

SEC. 129. A copy of the panel of the jury, returned by the sheriff, shall be delivered to every person so indicted at least three days before the day of trial.

Copy of panel to be given the accused.

SEC. 130. The prosecuting attorney may peremptorily challenge two of the panel, and he and the defendant shall have liberty of challenging jurors for cause, the validity of which the court shall try.

Challenge of the state, and for cause.

SEC. 131. The jurors summoned, as provided by sections one hundred and twenty-five, one hundred and twenty-six, and one hundred and twenty-seven of this code, or such of them as are not set aside on challenge, together with so many of the bystanders having the qualifications aforesaid as will make up the number of twelve, or if the whole array be set aside, twelve of such bystanders, having the qualifications aforesaid, as may not be set aside on challenge, shall be a lawful jury for the trial of a prisoner so charged with an offense, the punishment of which is capital.

What shall be a lawful jury for the trial of a person charged with a capital offense.

SEC. 132. In all other criminal cases the jury summoned and empaneled according to the provisions of the laws in force relating to the summoning and empanneling of juries in other cases, shall try the accused.

What shall be a lawful jury in other criminal cases.

SEC. 133. Except as otherwise provided, the prosecuting attorney and every defendant may peremptorily challenge two of the panel, and any of the panel for cause, the validity of which the court shall try.

Challenges in cases where no other provision is made.

SEC. 134. The following shall be good causes for challenge to any person called as a juror on any indictment: 1. That he was a member of the grand jury which found the indictment. 2. That he has formed or expressed an opinion as to the guilt or innocence of the accused. 3. In indictments for an offense, the punishment whereof is capital, that his opinions are such as to preclude him from finding the accused guilty of an offense punishable with death. 4. That he is a relation within the fifth degree to the person alleged to be injured, or attempted to be injured by the offense charged, or to the person on whose complaint the prosecution was instituted, or to the defendant. 5. That he has served on a petit jury which was sworn in the same cause against the same defendant, and which jury either rendered a verdict which was set aside or was discharged after hearing the evidence. 6. That he has served as a juror in a civil case brought against the defendant for the same act. 7. That he has been subpoenaed as a witness in the case. 8. The same challenges for cause shall be allowed in criminal prosecutions that are allowed to parties in civil cases.

Causes for challenge.

SEC. 135. All challenges for cause shall be tried by the court on the oath of the person challenged, or on other evidence, and such challenge shall be made before the jury is sworn, and not afterwards.

Who shall try challenges for cause, and when made.

SEC. 136. If two or more persons be put on trial at the same time, each must be allowed his separate peremptory challenge.

Each to be allowed peremptory challenge when two or more tried.

SEC. 137. When all challenges have been made, the following oath shall be administered: "You shall well and

Form of oath.

truly try, and true deliverance make, between the state of Ohio and the prisoner at the bar (giving his name); so help you God."

Affirmation.

SEC. 138. Any juror shall be allowed to make affirmation, and the words, "this you do as you shall answer under the pains and penalties of perjury," shall be substituted instead of the words "so help you God."

Article II.—Of Evidence.

Who shall be competent to testify.

SEC. 139. No person shall be disqualified as a witness in any criminal prosecution by reason of his interest in the event of the same, as a party or otherwise, or by reason of his conviction of any crime, but such interest or conviction may be shown for the purpose of affecting his credibility.

The defendant may testify.

SEC. 140. In the trial of all indictments, complaints and other proceedings against persons charged with the commission of crimes or offenses, the person so charged shall, at his own request, but not otherwise, be deemed a competent witness; nor shall the neglect or refusal to testify create any presumption against him, nor shall any reference be made to, nor any comment upon, such neglect or refusal.

Subpoena for witnesses to issue to any county.

SEC. 141. In all criminal cases it shall be the duty of the clerk, upon a præcipe being filed, to issue writs of subpoena for all witnesses named therein, directed to the sheriff of his county, or of any county of the state where the witnesses reside or may be found, which shall be served and returned as in other cases; and such sheriff, by writing indorsed on said writs, may depute any disinterested person to serve and return the same.

When return shall be verified by oath.

SEC. 142. If the subpoena be served by such special deputy, it shall be his duty after serving the same, to return thereon the manner in which the same was served; and also make oath or affirmation to the truth of said return, before some person competent to administer oaths; which shall be indorsed on such writ, and the same shall be returned according to the command thereof by the person serving the same through the postoffice or otherwise.

How attendance of witnesses shall be enforced, &c.

SEC. 143. Except as otherwise provided, the provisions of the code of civil procedure, relative to compelling the attendance and testimony of witnesses, their examination and administering of oaths and affirmations, and proceedings for contempt to enforce the remedies and protect the rights of parties, shall extend to criminal cases, so far as they are in their nature applicable.

How witness for defendant may be examined when he resides out of the state, &c.

SEC. 144. Where any issue of fact is joined on any indictment, and any material witness for the defendant resides out of the state; or residing within the state, is sick or infirm, or is about to leave the state, such defendant may apply in writing to the court in term time, or the judge thereof in vacation, for a commission to examine such witness upon interrogatories thereto annexed, and such court or judge may grant the same, and order what and for how long a time notice shall be given the prosecuting attorney before the witness shall be examined.

SEC. 145. The proceedings in taking the examination of such witness and returning it to court, shall be governed in all respects as the taking of depositions in civil cases.

How the examination shall proceed.

SEC. 146. When two or more persons shall be indicted together, the court may, at any time before the defendant has gone into his defense, direct any one of the defendants to be discharged, that he may be a witness for the state. An accused party may, also, when there is not sufficient evidence to put him upon his defense, be discharged by the court; or if not discharged by the court, shall be entitled to the immediate verdict of the jury, for the purpose of giving evidence for others accused with him; such order of discharge in either case shall be a bar to another prosecution for the same offense.

When court may order the discharge of one of several defendants to give evidence for the state or another accused.

SEC. 147. In trials for taking a woman away with intent to force her to be married or defiled, and for seduction, and for seduction for the purpose of prostitution, no conviction shall be had on the evidence of the female offended against, unsupported by other evidence.

Proof in cases of seduction, &c.

SEC. 148. In trials for procuring or inciting another to commit perjury, though perjury be not committed, no conviction shall be had on the evidence of the person attempted to be influenced, unsupported by other testimony.

Proof in cases of inciting perjury.

SEC. 149. In trials for treason, no evidence shall be given of any overt act that is not expressly laid in the indictment; and no conviction shall be had upon any indictment for said offense, unless one or more overt acts be expressly alleged therein.

Proof in case of treason.

SEC. 150. In trials for conspiracy, in cases where an overt act is required by law to consummate the offense, no conviction shall be had unless one or more overt acts be expressly alleged in the indictment, nor unless one or more of the acts so alleged be proved on the trial; but other overt acts not alleged in the indictment may be given in evidence on the part of the prosecution.

Proof in conspiracy.

Article III.—Miscellaneous Provisions.

SEC. 151. After the jury has been empaneled and sworn, the trial shall proceed in the following order: 1. The counsel for the state must state the case of the prosecution, and may briefly state the evidence by which he expects to sustain it. 2. The defendant or his counsel must then state his defense, and may briefly state the evidence he expects to offer in support of it. 3. The state must first produce its evidence; the defendant will then produce his evidence. 4. The state will then be confined to rebutting evidence, unless the court for good reasons, in furtherance of justice, shall permit it to offer evidence in chief. 5. When the evidence is concluded, either party may request instructions to the jury on points of law, which shall be given or refused by the court; which instruction shall be reduced to writing, if either party require it. 6. When the evidence is concluded, unless the case is submitted without argument, the counsel for the state shall commence, the defendant or his counsel follow, and the counsel for the state conclude the argument to the jury. 7. The court

Order of proceedings on trial.

after the argument is concluded, shall immediately, and before proceeding with other business, charge the jury; which charge or any charge given after the conclusion of the argument, shall be reduced to writing by the court, if either party request it before the argument to the jury is commenced; and such charge or charges, or any other charge or instruction provided for in this section, when so written and given, shall in no case be orally qualified, modified, or in any manner explained to the jury by the court; and all written charges and instructions shall be taken by the jury in their retirement, and returned with their verdict into court, and shall remain on file with the papers of the case.

When a person who is not present may be tried.

SEC. 152. No person indicted for a felony shall be tried unless personally present during the trial. Persons indicted for a misdemeanor may, at their own request, by leave of the court, be put on trial in their absence. The request shall be in writing, and entered on the journal of the court.

Separate trials in cases of felony.

SEC. 153. When two or more persons are indicted for a felony, each person so indicted, shall, on application to the court for that purpose, be separately tried.

Proceedings when mistake in charging proper offense, &c., discovered.

SEC. 154. When it shall appear at any time before verdict, that a mistake has been made in charging the proper offense, the accused shall not be discharged if there appear to be good cause to detain him in custody; but the court must recognize him to answer to the offense on the first day of the next term of such court; and shall, if necessary, likewise recognize the witnesses to appear and testify.

Proceedings in like case when jury empaneled.

SEC. 155. When a jury has been empaneled in a case contemplated by the preceding section, such jury may be discharged without prejudice to the prosecution.

Exceptions taken to opinion of the court as in civil cases.

SEC. 156. In all cases where a defendant shall feel himself aggrieved by any opinion or decision of the court, he may present his bill of exceptions thereto; and it shall be the duty of the court to sign and seal the same; and the taking, preparing, and signing and sealing of said bill, shall be governed by the rules established in such matters in civil cases. Where the ground of exception is that the verdict is not sustained by sufficient evidence, or is contrary to law, and the court has overruled a motion for a new trial made on that ground, the bill of exceptions shall set out the evidence. The bill of exceptions, when signed and sealed, shall be made a part of the record, and shall have the same force and effect as in civil cases.

Exceptions taken by the prosecuting attorney.

SEC. 157. The prosecuting attorney may take exceptions to any opinion or decision of the court during the prosecution of the cause; and the bill containing the exceptions, upon being presented, shall, if it be conformable to the truth, be signed and sealed by the court; which bill shall be made a part of the record, and be in all respects governed by the rules established as to bills of exceptions in civil cases, except as herein provided.

Proceedings upon the exceptions of the prosecuting attorney.

SEC. 158. The prosecuting attorney may present such bill of exceptions to the supreme court, and apply for permission to file it with the clerk thereof for the decision of such court

upon the points presented therein ; but prior thereto, he shall give reasonable notice to the judge who presided at the trial in which the bill was taken, of his purpose to make such application ; and if the supreme court shall allow such bill to be filed, such judge shall appoint some competent attorney to argue the case against the prosecuting attorney, which attorney shall receive for his services a fee not exceeding one hundred dollars, to be fixed by such court, and to be paid out of the treasury of the county in which the bill was taken.

SEC. 159. If the supreme court shall be of the opinion that the questions presented should be decided upon, they shall allow the bill of exceptions to be filed and render a decision thereon.

Duty of the supreme court.

SEC. 160. The judgment of the court in the case in which the bill was taken, shall not be reversed, nor in any manner affected ; but the decision of the supreme court shall determine the law to govern in any similar case which may be pending at the time the decision is rendered, or which may afterward arise in the state.

Effect of the decision of the supreme court.

SEC. 161. If any person indicted for any offense and committed to prison, shall not be brought to trial before the end of the second term of the court having jurisdiction of the offense, which shall be held after such indictment found, he shall be entitled to be discharged, so far as relates to the offense for which he was committed, unless the delay shall happen on the application of the prisoner.

Prisoner indicted — when to be discharged.

SEC. 162. If any person indicted for any offense, who has given bail for his appearance, shall not be brought to trial before the end of the third term of the court in which the cause is pending, held after such indictment is found, he shall be entitled to be discharged, so far as relates to such offense, unless the delay happen on his application, or be occasioned by the want of time to try such cause, at such third term.

Persons indicted and held to bail — when to be discharged.

SEC. 163. If, when application is made for the discharge of a defendant under either of the last two sections, the court shall be satisfied there is material evidence on the part of the state, which cannot then be had, that reasonable exertions have been made to procure the same, and that there is just ground to believe that such evidence can be had at the succeeding term, the cause may be continued, and the prisoner remanded or admitted to bail, as the case may require.

Proceedings of the court on application to discharge under either of the two preceding sections.

TITLE VII.

OF THE VERDICT, AND JUDGMENT AND PROCEEDINGS
THEREON.

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 186. Sheriff's return.
 187. Proceedings when person under sentence of death appears to be insane.
 188. Same.
 189. Same.
 190. Proceedings when a female convict is pregnant.
 191. Same.

Proceedings of
the jury.

SEC. 164. The proceedings provided by law in civil cases as to the conduct of the jury, the admonitions of the court, and the manner of returning the verdict, shall be had upon all trials on indictments, so far as such proceedings may be applicable, and when it is not otherwise provided. In the trial of felonies, the jury shall not be permitted to separate after being sworn, until discharged by the court. In the trial of misdemeanors, they shall not be permitted to separate after receiving the charge of the court, until discharged.

Proceedings
when jury dis-
charged.

SEC. 165. In case a jury shall be discharged on account of sickness of a juror, or other accident or calamity requiring their discharge, or after they have been kept so long together that there is no probability of agreeing, the court shall, upon directing the discharge, order that the reasons for such discharge shall be entered upon the journal; and such discharge shall be without prejudice to the prosecution.

Jury may be
polled.

SEC. 166. When the jury have agreed upon their verdict, they must be conducted into court by the officer having them in charge. Before the verdict is accepted, the jury may be polled at the request of either the prosecuting attorney or the defendant.

Jury to ascertain
the value of the
property stolen.

SEC. 167. When the indictment charges an offense against the property of another by larceny, embezzlement, or obtaining under false pretenses, the jury, on conviction, shall ascertain and declare in their verdict, the value of the property stolen, embezzled or falsely obtained.

Of what degree
defendant may
be found guilty.

SEC. 168. Upon an indictment for an offense consisting of different degrees, the jury may find the defendant not guilty of the degree charged, and guilty of any degree inferior thereto; and upon an indictment for any offense, the jury may find the defendant not guilty of the offense, but guilty of an attempt to commit the same, where such an attempt is an offense.

SEC. 169. Before the sentence is pronounced, the defendant must be informed by the court of the verdict of the jury, and asked whether he has anything to say why judgment should not be pronounced against him.

What the court shall ask the convict.

SEC. 170. If the defendant has nothing to say, the court shall proceed to pronounce judgment as is provided by law.

The court shall pronounce judgment.

SEC. 171. Whenever any person shall be convicted, by confession or otherwise, of any offense punishable either in whole or in part by fine, such person may move the court to hear testimony in mitigation of the sentence; and it shall be the duty of the court to hear such testimony at such time as may be suitable and proper, at the term of the court at which the motion is made, or said court may continue the case to a future term, on the same terms as the case might have been continued before verdict or confession; and it shall be the duty of the prosecuting attorney to attend to such proceedings on behalf of the state, and to offer any testimony necessary to give the court a true understanding of the case.

Testimony after verdict or confession to mitigate penalty.

SEC. 172. When a person shall be convicted of an offense, and shall give notice to the court of his intention to apply for a writ of error, the court shall, on application of the person so convicted, suspend the execution of the sentence or judgment against him until the next term of the court.

Court shall suspend execution of sentence in certain cases.

SEC. 173. No court shall suspend the execution of the sentence or judgment against any person convicted and sentenced for a misdemeanor, unless such person shall enter into a recognizance with such security as the court may require, conditioned that the person so convicted and sentenced shall appear at the next term of such court, and from term to term, until the case in error shall be determined, and abide the judgment or sentence of the court.

In what case recognizance required.

SEC. 174. If no writ of error be allowed by the next term of the court after the sentence was pronounced, the court shall, at such term, carry the same into execution.

Subsequent sentence.

SEC. 175. If a writ of error be allowed, and on the hearing the judgment of the court in which the trial was had shall be affirmed, such court shall carry into execution the sentence pronounced against the defendant at the next term after the judgment of affirmance is rendered.

Same.

SEC. 176. Whenever a person shall be convicted of a felony, and the judgment shall be suspended as aforesaid, it shall be the duty of the court to order the person so convicted into the custody of the sheriff, to be imprisoned until the case in error be disposed of. If a person so convicted shall escape, the clerk of the court, on application of the prosecuting attorney, shall issue a warrant stating such conviction, and commanding the sheriff of the county to pursue after such person into any county in the state; and said sheriff shall take such person and again commit him to the jail of such county.

Imprisonment and recapture, &c.

SEC. 177. Every person sentenced to the penitentiary shall, within thirty days after his sentence, unless the execution thereof be suspended as aforesaid, be conveyed to the penitentiary of this state by the sheriff of the county in which the conviction took place, and shall there be delivered into

When and how convicts to be transported to the penitentiary

the custody of the warden of said penitentiary, together with a copy of the sentence of the court ordering such imprisonment, there to be safely kept until the term of his confinement shall have expired, or he shall be pardoned. If the execution of the sentence be suspended, and the judgment is afterward affirmed, the defendant shall be conveyed to the penitentiary within thirty days after the court shall direct the sentence to be executed.

Sheriff may demand assistance during conveyance of convicts.

SEC. 178. The sheriffs of the several counties of this state, during the time they shall be employed in conveying to the penitentiary any person sentenced to imprisonment therein, shall have the same power and authority to secure him in any jail within the state, and to demand the assistance of any sheriff, jailer or other person within this state, in keeping such prisoner, as if the sheriff were in his own proper county; and all such sheriffs, jailers or other persons so called upon, shall be liable, on refusal, to the same penalties as if the sheriff making the demand were in his own county.

How convict to be confined in the jail.

SEC. 179. When any person convicted of an offense shall be sentenced to imprisonment in the county jail, the court shall order the defendant into the custody of the sheriff, who shall deliver him, together with the record of conviction, to the jailer, in whose custody he shall remain in the jail of the proper county, until the term of his confinement shall have expired, or he shall have been pardoned, or otherwise legally discharged.

Sentence when person fined.

SEC. 180. Whenever a fine shall be the whole or part of a sentence, the court may, in its discretion, order that the person sentenced shall remain confined in the county jail until the amount of such fine and costs are paid.

How sentence of death to be inflicted.

SEC. 181. When any person shall be sentenced to be hung, such punishment shall be inflicted in the immediate vicinity of the jail, within an inclosure to be prepared for that purpose under the direction of the sheriff, which inclosure shall be higher than the gallows, and so constructed as to exclude the view of persons outside thereof.

Same.

SEC. 182. In all cases in which the jail in any county shall be of such construction that the sentence of death can be conveniently carried into execution within its walls, no inclosure need be prepared as is provided in the preceding section, but such execution shall take place within the walls of the jail.

Same.

SEC. 183. Whenever the sentence of death shall be about to be carried into execution in any county of this state, which may at the time have no jail, it shall be the duty of the sheriff to cause such execution to be conducted agreeably to the provisions of section one hundred and eighty-one, at such convenient place at the county seat as he may select.

Who may be present.

SEC. 184. Besides the sheriff and his assistants, the following persons may be present at the execution, and none others: The clergyman in attendance upon the prisoner, such other persons as the prisoner may designate, not exceeding three in number, and such other persons as the sheriff may designate, not exceeding six in number.

Military force may be required.

SEC. 185. Whenever the sheriff shall deem the presence

of a military force necessary to carry into effect the provisions of the four preceding sections, he shall make a written requisition upon the officer of the militia highest in command then in his county, who shall issue the necessary orders to insure a compliance with the requisition of such sheriff.

Sheriff's return.

SEC. 186. Whenever the sheriff shall inflict the punishment of death upon a convict, in obedience to the command of the court, he shall make return of his proceedings as soon as may be, to the clerk of the court where the conviction was had, and the clerk shall subjoin the return to the record of conviction and sentence.

Proceedings when person under sentence of death appears to be insane.

SEC. 187. If any convict sentenced to the punishment of death, shall appear to be insane, the sheriff shall forthwith give notice thereof to a judge of the court of common pleas of the judicial district, and shall summon a jury of twelve impartial men to inquire into such insanity, at a time and place to be fixed by the judge, and shall give immediate notice thereof to the prosecuting attorney.

Same.

SEC. 188. The judge, clerk of the court and prosecuting attorney, shall attend the inquiry. Witnesses may be produced and examined before the jury. The finding shall be in writing, signed by the jury. If it be found that the convict is insane, the judge shall suspend the execution of the convict until the sheriff shall receive a warrant from the governor of the state, directing such execution. The finding of the jury and order of the judge, certified by the judge, shall be by the clerk entered on the journal of the court.

Same.

SEC. 189. The sheriff shall transmit, immediately, a certified copy of such finding to the governor, who may, as soon as he shall be convinced that the convict has become of sound mind, issue a warrant appointing a time for his execution.

Proceedings when a female convict is pregnant.

SEC. 190. If a female convict sentenced to the punishment of death appear to be pregnant, the sheriff shall in like manner summon a jury of six persons, who, on like proceedings being had as in the case of an insane convict, shall return a finding signed by them.

Same.

SEC. 191. If by such finding it shall appear that such female convict is with child, the sheriff shall in like manner suspend the execution of her sentence, and shall transmit the finding to the governor, who, on being satisfied that such woman is no longer pregnant, shall issue a warrant appointing a day for her execution.

TITLE VIII.

OF NEW TRIALS, MOTIONS IN ARREST AND ERROR.

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 199. Writs of error—by whom and how allowed.

SECTION

200. Suspension of execution of sentence in capital case, &c.
 201. How writ returnable.
 202. Proceedings upon a writ of error in cases of misdemeanor.
 203. Proceedings when sentence is reversed and defendant in penitentiary.
 204. Same.
 205. Same.

Article I.—New Trials.

For what causes a new trial granted.

SEC. 192. A new trial, after a verdict of conviction, may be granted on the application of the defendant, for any of the following reasons affecting materially his substantial rights: 1. Irregularity in the proceedings of the court, jury, or the prosecuting attorney or the witnesses for the state, or any order of the court or abuse of discretion, by which the defendant was prevented from having a fair trial. 2. Misconduct of the jury, or the prosecuting attorney, or of the witnesses for the state. 3. Accident or surprise which ordinary prudence could not have guarded against. 4. That the verdict is not sustained by sufficient evidence, or is contrary to law. 5. Newly discovered evidence material for the defendant, which he could not with reasonable diligence have discovered and produced at the trial. 6. Error of law occurring at the trial.

When application to be made.

SEC. 193. The application for a new trial shall be by motion upon written grounds, filed at the term the verdict is rendered, and shall, except for the cause of newly discovered evidence material for the party applying, which he could not with reasonable diligence have discovered and produced at the trial, be within three days after the verdict was rendered, unless unavoidably prevented.

What causes for new trial must be sustained by affidavits.

SEC. 194. The causes enumerated in subdivisions two, three and five of section one hundred and ninety-two, must be sustained by affidavits showing their truth, and may be controverted by affidavits.

Article II.—Motions in Arrest.

When a motion in arrest of judgment may be granted.

SEC. 195. A motion in arrest of judgment may be granted by the court for either of the following causes: First—that the grand jury which found the indictment had no legal authority to inquire into the offense charged, by reason of it not being within the jurisdiction of the court. Second—that the facts stated in the indictment do not constitute an offense.

When it may not be made.

SEC. 196. No judgment can be arrested for a defect in form.

SEC. 197. The effect of allowing a motion in arrest of judgment shall be to place the defendant in the same position with respect to the prosecution, as before the indictment was found. If from the evidence on the trial there shall be sufficient reason to believe him to be guilty of an offense, the court shall order him to enter into a recognizance, with sufficient security, conditioned for his appearance at the first day of the next term of the same court; otherwise, the defendant shall be discharged.

Effect of allowing motion in arrest of judgment.

SEC. 198. Motions in arrest of judgment must be made within three days after the verdict is rendered.

When motion must be made.

Article III.—Error.

SEC. 199. In criminal cases not punishable with death, after final judgment writs of error may, on good cause shown, be allowed on the application of the defendant, by the supreme court, or any judge thereof in vacation, as in civil cases; and in criminal cases punishable with death, writs of error may be allowed on like application, by said court when in session, in open session, or by any two judges thereof, in vacation.

Writs of error—by whom and how allowed.

SEC. 200. In all cases of conviction where the punishment shall be capital, the judges or court allowing such writ of error shall order a suspension of the execution until such writ of error shall be heard and determined; upon hearing such writ of error, they shall order the prisoner to be discharged, a new trial to be had, or appoint a day certain for the execution of the sentence, as the nature of the case may require.

Suspension of execution of sentence in capital case, &c.

SEC. 201. In all cases of conviction for a felony, the court, judge or judges allowing the writ of error, may order the same to be made returnable before the supreme court, or the district court of the proper county; and shall order a suspension of the execution of said sentence.

How writ returnable.

SEC. 202. In cases of conviction for misdemeanor, the court or judge allowing the writ of error shall make it returnable as in cases of conviction of felony, and may order a suspension of the execution of the sentence upon the defendant on his entering into a recognizance before the clerk of the court in which the cause was tried, with sufficient security, to be approved of by the clerk, in such sum as shall be specified in the order of the court or judge allowing such writ of error, which recognizance shall be conditioned for the defendant's prosecuting said writ of error to effect and surrendering himself to the custody of the sheriff of the county in which such conviction was had, in case the judgment of the court shall not be reversed, or a new trial ordered.

Proceedings upon a writ of error in cases of misdemeanor.

SEC. 203. When any defendant has been committed to the penitentiary of this state, and the judgment by virtue of which the commitment is made shall be reversed on a writ of error allowed under the provisions of this article, by which reversal the defendant shall be entitled to his discharge or to

Proceedings when sentence is reversed and defendant in penitentiary.

a new trial, the clerk of the court reversing said judgment shall, under the seal of the court, forthwith certify the same to the warden of the penitentiary.

Same.

SEC. 204. Said warden, on receipt of such certificate, in case a discharge of such defendant be ordered, shall immediately discharge such defendant from the penitentiary.

Same.

SEC. 205. In case a new trial be ordered, the warden of the penitentiary shall forthwith cause said defendant to be taken and conducted to the county jail and committed to the custody of the sheriff thereof, in which said defendant was convicted.

TITLE IX.

MISCELLANEOUS PROVISIONS.

SECTION

- 206. Court may order view of place.
- 207. Disposition of counterfeit coin and instruments for making.
- 208. Stolen property unclaimed—how disposed of.
- 209. Same.
- 210. Same.
- 211. Duties of judge where persons charged with commission of crime against other states are brought before him.
- 212. Same.
- 213. Same.
- 214. Proceedings relating to conditional reprieve.
- 215. Same.

SECTION

- 216. Same.
- 217. Application for pardons to be made as hereinafter prescribed.
- 218. Notice of the application.
- 219. Duty of prosecuting attorney.
- 220. When there is danger of the death of the prisoner.
- 221. Writs of certiorari to justices of the peace.
- 222. What shall be done with escaped convict in certain cases.
- 223. When reward to be paid for apprehension of offender.
- 224. What shall be done with escaped convict in certain cases.

Court may order view of place.

SEC. 206. Whenever in the opinion of the court it is proper for the jury to have a view of the place in which any material fact occurred, it may order them to be conducted in a body, under the charge of the sheriff, to the place, which shall be shown to them by some person appointed by the court. While the jury are thus absent, no person other than the sheriff having them in charge, and the person appointed to show them the place, shall speak to them on any subject connected with the trial.

Disposition of counterfeit coin and instruments for making.

SEC. 207. If any person called to testify on behalf of the state, before any justice of the peace, grand jury or court, upon any complaint, information or indictment for any offense made punishable by the provisions of the act entitled "an act more effectually to prevent gambling," passed January 17, 1846, or the act entitled "an act for the prevention of gaming," passed March 12, 1831, shall disclose any fact tending to criminate himself in any matter made punishable by the provisions of said acts, he shall thereafter be discharged from all liability to prosecution or punishment for such matter of offense.

Stolen property unclaimed—how disposed of.

SEC. 208. Whenever any counterfeit coin or instrument for the purpose of making or gilding counterfeit coin, shall be taken from the convicts or persons indicted for counter-

feiting or having the same in possession with criminal intent, and shall remain in the keeping of any county officers, it shall be lawful for the commissioners of the proper county to melt the said counterfeit coin into a mass, or cast the same into other form than that of coin, and sell the same, together with the instruments aforesaid, and pay the avails into the treasury of such county for the benefit of the common schools therein; provided, that said instruments be so mutilated and broken as to prevent their being applied to the purpose of counterfeiting.

SEC. 209. When any property stolen, embezzled or obtained under false pretenses, shall, after the trial of the person charged with the larceny, embezzlement or false obtaining thereof, remain in the possession of any officer, unclaimed by the owner for the space of three months, the same shall, after public notice in a newspaper printed in the county, be sold at auction to the highest bidder, under the direction of the prosecuting attorney, and the avails thereof paid over to the treasury of the county for the use of the common schools therein.

Same.

SEC. 210. In case any property stolen, embezzled or obtained under false pretenses, shall remain in the custody of any officer for one year unclaimed, as aforesaid, and the thief shall not within that time be taken, or if taken shall escape, it shall be disposed of in like manner and for like purposes as indicated in the preceding section.

Same.

SEC. 211. When an affidavit shall be filed before any judge of a court of common pleas, or any judge of probate or police court, or any justice of the peace, within this state, setting forth that any person charged with the commission of any criminal offense against the laws of any other state or of any of the territories of the United States, and which, if the act had been committed in this state would, by the laws thereof, have been a crime, is at the time of filing such affidavit within the county where the same may be filed, it shall be lawful, and it is hereby made the duty of such judge or justice of the peace to issue his warrant, directed to the sheriff or any constable of the county, commanding him forthwith to arrest and bring before the officer issuing such writ the person so charged.

Duties of judge where persons charged with commission of crime against other states are brought before him.

SEC. 212. When the person arrested, as provided in section 211, shall be brought before the officer issuing such warrant, it shall be lawful, and it is hereby made the duty of such officer to hear and examine such charge, and upon proof by him adjudged to be sufficient, to commit such person to the jail of the county in which such examination shall take place, or cause such person to be delivered to some suitable person to be removed to the proper place of prosecution.

Same.

SEC. 213. Whenever any person is committed to jail by any judge or justice of the peace, by either of the provisions of the preceding section, it shall be the duty of such judge or justice of the peace forthwith to give notice, by letter or otherwise, to the sheriff of the county in which such offense shall have been committed, or to the person injured by such

Same.

offense; and no person so committed shall be delayed longer in jail than necessary to allow a reasonable time to the persons so notified, after they shall have received such notice, to apply for and obtain the proper requisition for the persons so committed.

Proceedings
relating to
conditional
reprieve.

SEC. 214. Whenever the governor may deem it expedient and proper to reprieve any person under sentence of death, under any condition whatsoever, the condition upon which such reprieve is granted shall be specified in the warrant, and the person accepting such conditional reprieve shall subscribe such acceptance upon the warrant containing the conditions of reprieve in the presence of two witnesses, who shall attest the same; and such witnesses shall go before the clerk of the court where such sentence is recorded, and shall prove the same, and the clerk shall thereupon record the warrant of reprieve, together with the acceptance and proof thereof, in the journals of the court, a transcript of which record shall at all times thereafter be evidence for or against the person accepting such conditional reprieve.

Same.

SEC. 215. If in case of any reprieve the governor shall deem it expedient and proper to confine the persons so reprieved in the penitentiary, it being so specified in the warrant, the sheriff or other officer having the person so reprieved in his custody, shall convey him to the penitentiary in the same manner as other convicts are directed by law to be conveyed; and the warden of the penitentiary shall receive such person, together with the warrant of reprieve, and shall proceed with such convict as such warrant may direct; and the expenses of transporting such person to the penitentiary shall be allowed and paid as in other cases.

Same.

SEC. 216. If any person reprieved, according to section two hundred and fourteen, shall violate the conditions upon which such reprieve is granted, such person shall be proceeded against as in other cases of persons escaping from prison convicted of offenses.

Application for
pardons to be
made as herein-
after prescribed.

SEC. 217. Application for the pardon of any person convicted of an offense, and sentenced to punishment, shall be made in the manner and under the restrictions hereinafter prescribed.

Notice of the
application.

SEC. 218. Notice of the application for such pardon shall be given to the prosecuting attorney of the county in which the indictment was found against such person or persons so convicted and sentenced, at least three weeks before such application shall be considered by the governor of the state; a copy of which notice, acknowledged by such prosecuting attorney, or certified under oath of a credible witness, to be a true copy thereof, shall accompany every such application to the governor; and a notice of such application, setting forth the names of the person or persons on whose behalf it is made, the crime of which he, she or they shall have been convicted, the time of such conviction and the term of sentence, shall also be published in some newspaper printed in such county, and of general circulation therein; or if there be no newspaper published therein, then such notice shall be posted

on the door of the court house of such county, at least three weeks before the governor of the state shall consider any such application; a copy of which notice, duly authenticated by some credible witness under oath, shall also accompany such application; provided, that in any case in which the application is for the pardon of any person sentenced to capital punishment, and the time from the date of the sentence to the time of the execution thereof is less than three weeks, such notice shall only be required to be so served and published for ten days before the consideration of such application.

SEC. 219. It is hereby made the duty of the prosecuting attorney of the county in which the indictment was found against such person or persons on whose behalf such application for pardon is made, to make out and forward to the governor, within ten days after the service of the notice upon him as heretofore provided, a statement setting forth the time of such trial and conviction, and the date and term of such sentence, and also the crime of which such person or persons were convicted; and he shall also briefly state any circumstances in aggravation or extenuation, if any such appeared in the testimony upon the trial of the person or persons in whose behalf such application is made.

Duty of prosecuting attorney

SEC. 220. In every case in which there is imminent danger of the death of any person imprisoned in the penitentiary, which fact shall appear by the certificate of the physician thereof, addressed to the governor, which certificate may be accompanied by the recommendation of the warden of the penitentiary, for the pardon of such convict or convicts; and in every case in which the warden of the penitentiary and the directors thereof, shall unite in a recommendation to the governor for the pardon of any such convict or convicts, stating specifically the considerations and reasons why such application is made, the provisions in the foregoing sections shall not be considered applicable.

When there is danger of the death of the prisoner.

SEC. 221. Writs of certiorari may be allowed, directed to justices of the peace, to cause their proceedings in prosecutions for offenses where the defendant is not recognized, or the decision of the justice is final, to be brought before the court of common pleas, in order that justice may be done.

Writs of certiorari to justices of the peace.

SEC. 222. Whenever any convict in the Ohio penitentiary shall be indicted for any offense committed while confined therein, said convict shall remain in the custody of the warden of said penitentiary, subject to the order of the court of common pleas of Franklin county.

What shall be done with convict in certain cases.

SEC. 223. The county commissioners of the several counties in this state are hereby authorized, when they deem the same expedient, to offer such rewards as in their judgment the nature of the case may require, for the detection or apprehension of any person charged with or convicted of a felony, and pay the same on the conviction of such person, together with all other necessary expenses not otherwise provided for by law, incurred in making such detection or apprehension, out of the county treasury.

When reward to be paid for apprehension of offender.

What shall be
done with es-
caped convict
in certain cases

SEC. 224. If any person who has been convicted of murder in the first degree and sentenced to be hung, shall escape and shall not be retaken before the time fixed for his execution, it shall be lawful for the sheriff to rearrest such person and commit him to the jail of the proper county, and make return thereof to the court in which the sentence was passed; and thereupon the court shall proceed to fix the time of execution, which shall be carried into effect by the proper officer as may be provided by law for the execution of persons convicted of murder in the first degree.

TITLE X.

ACTS REPEALED.

SECTION

225. Acts repealed.
226. Effect of repeal.
227. What certain phrases signify.
228. "Writing."
229. "Oath."
230. "Felony."

SECTION

231. This code applicable to probate courts.
232. Practice in cases not provided for in this code.
233. When this code to take effect.

SEC. 225. The following acts and parts of acts are hereby repealed:

S. & C., 1176.

An act concerning mesne process in civil and criminal cases, passed February 10, 1831.

S. & C., 1178.

An act concerning bail in criminal cases, passed March 3, 1834.

S. & C., 1179.

An act directing the mode of trials in examining courts, by whom such courts shall be held, and the manner of admitting to bail in criminal cases, passed March 12, 1852.

S. & C., 1181.

An act directing the mode of trial in criminal cases, passed March 7, 1831.

S. & C., 1187.

An act to allow writs of error in criminal cases, passed March 7, 1831.

S. & C., 1189.

An act to amend the act entitled "an act to allow writs of error in criminal cases," passed March 7, 1831; passed March 27, 1841.

S. & C., 1190.

An act to amend the act entitled "an act directing the mode of trial in criminal cases," passed March 7, 1831, and also to amend the act entitled "an act to allow writs of error in criminal cases," passed March 7, 1831; passed March 12, 1844.

S. & C., 1190.

An act to amend the act directing the mode of trial in criminal cases, passed March 3, 1840.

S. & C., 1190.

An act to provide for the safe keeping of persons that may be reprieved by the governor, passed January 27, 1818.

S. & C., 1191.

An act to abolish public executions, passed March 12, 1844.

S. & C., 1191.

An act to amend the act to abolish public executions, passed February 16, 1846.

S. & C., 1192.

An act to amend the act to regulate the proceedings of the judicial courts, passed February 25, 1843.

S. & C., 1193.

An act relating to the entry and recording of recognizances in the courts of common pleas, passed March 12, 1853.

S. & C., 1194.

An act to extend the provisions of the act passed February 28, 1843, entitled "an act to authorize the court of common

pleas to remit judgments or recognizances in certain cases, and for other purposes," passed February 18, 1848.

An act allowing writs of certiorari from the courts of common pleas to justices of the peace in certain criminal cases, passed March 12, 1853. S. & C., 1174.

An act to authorize the county commissioners to melt counterfeit coin and mutilate counterfeiting instruments in certain cases and sell the same, passed January 27, 1845. S. & C., 1195.

An act providing for infliction of capital punishment in certain cases, passed February 26, 1857. S. & C., 1195.

An act to restore to the court of common pleas the jurisdiction in minor offenses, passed April 11, 1857. S. & C., 1195.

An act supplementary to "an act directing the mode of trial in criminal cases," passed March 7, 1831; passed March 3, 1860. S. & C., 1197.

An act concerning fugitives from justice and to repeal an act on the same subject passed February 28, 1834; passed March 24, 1860. S. & C., 1197.

Sections eight and nine of an act for the regulation of county jails, passed March 13, 1843. S. & C., 747.

Sections ten, eleven, twelve and fourteen of an act relating to juries, passed March 9, 1831. S. & C., 753.

An act to amend an act entitled "an act relating to juries," passed February 9, 1831; passed March 5, 1846. S. & C., 753.

The whole of the act defining the powers and duties of justices of the peace and constables in criminal cases, passed March 27, 1837, except sections 24, 25, 26, 27, 28, 29 and 33. S. & C., 810.

Section one of an act to amend the act entitled "an act defining the powers and duties of justices of the peace and constables in criminal cases," passed March 27, 1837, and the act amendatory thereto, passed March 7, 1842. S. & C., 819.

An act to amend an act entitled an "act directing the mode of trial in criminal cases," passed March 7, 1831; passed March 22, 1850. S. & C., 822.

An act supplementary to an act defining the powers and duties of justices of the peace and constables in criminal cases, passed March 29, 1856. S. & C., 822.

An act supplementary to the act entitled an act defining the duties of justices of the peace and constables in criminal cases, passed March 27, 1837; passed March 26, 1859. S. & C., 823.

An act to prescribe the manner of applying for pardons, passed January 28, 1852. S. & C., 891.

Sections one and three of an act making provisions for carrying into effect the acts for the prosecution of crimes, passed February 20, 1835. S. & C., 916.

Sections two and three of an act for the protection of bees, passed February 28, 1861. S. & C., 290.

An act to amend the act to amend an act entitled an act defining the powers and duties of justices of the peace and constables in criminal cases, passed March 27, 1837, and the act amendatory thereto, passed March 7, 1842; passed April 9, 1861. S. & C., 424.

An act to prevent the sale of intoxicating liquors in the vicinity of camps, passed May 13, 1861. S. & C., 139.

- S. & S., 521. An act for the confinement of persons indicted for crime committed while in the penitentiary, passed March 27, 1863.
- S. & S., 611. An act concerning the mode of trial in certain criminal cases, passed March 23, 1864.
- S. & S., 269. Sections one, three and four of an act for the prosecution and punishment of certain crimes therein named, passed March 24, 1864.
- S. & S., 612. The first clause of section fourteen in section one of an act to amend section fourteen of an act directing the mode of trial in criminal cases, passed March 7, 1831, as amended by an act passed March 14, 1862; passed February 1, 1866.
- S. & C., 663. Sections three, four, five, six, seven, eight and nine of an act more effectually to prevent gambling, passed January 17, 1846.
- S. & C., 666. Sections twelve and thirteen of an act for the prevention of gaming, passed March 12, 1831.
- S. & S., 613. The act to authorize persons charged with crimes or offenses to testify, passed April 17, 1867.
- S. & S., 92. An act to amend section one of an act entitled "an act to authorize county commissioners to offer and pay rewards in certain cases," passed January 26, 1865; passed March 27, 1867.
- S. & S. 614. An act to authorize the prosecuting attorney to take exceptions in criminal cases, passed April 16, 1867.
- S. & S. 608. An act concerning fugitives from justice, and to repeal an act on the same subject, passed March 24, 1860; passed April 13, 1868.
- Effect of repeal. SEC. 226. No prosecution pending at the time this code takes effect, for any offense committed, shall be affected by the repeal of the statutes named in section two hundred and twenty-five, except that the proceedings in such prosecution shall be conformed, so far as practicable, to the provisions of this code.
- What certain phrases signify. SEC. 227. Unless when otherwise provided, words used in this code in the present tense, include the future as well as the present. Words used in the masculine gender comprehend as well the feminine and neuter. The singular number includes the plural, and the plural the singular. And the word "person" includes a corporation as well as a natural person.
- "Writing." SEC. 228. The term "writing" includes printing.
- "Oath" SEC. 229. The term "oath" includes an affirmation.
- "Felony" SEC. 230. The term "felony" signifies such an offense as may be punished with death or imprisonment in the penitentiary. Any other offense is denominated a misdemeanor.
- This code applicable to probate courts. SEC. 231. The provisions of this code, so far as applicable, shall govern criminal proceeding in probate courts having criminal jurisdiction.
- Practice in cases not provided for in this code. SEC. 232. If a case ever arise not provided for in this code, the practice heretofore in use may be adopted, so far as may be necessary to prevent a failure of justice.

SEC. 233. This act shall take effect and be in force from and after the first day of August next.

When this code
to take effect.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. O. LEE,
President of the Senate.

Passed May 6, 1869.

AN ACT

Amendatory of and supplementary to the act to regulate Insurance Companies, passed April 16, 1867. (64th O. L., p. 157.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section seven of said act be so amended as to read as follows:

Section 7. Upon receiving notification that the proceedings required by the sections foregoing have been had, the auditor of state shall cause an examination to be made, either by himself or by some disinterested person, specially appointed by him for that purpose, who shall certify under oath that the capital herein required of the company named, according to the nature of the business proposed to be transacted by such company, has been paid in and is possessed by it in money, or in such stocks and bonds and mortgages as are required by the sixth section of this act, or if a mutual company, that it has received and is in actual possession of the capital, premiums, or bona fide engagements of insurance, or other securities, as the case may be, to the extent and value required by the third section of this act; and the name and residence of the maker of each premium note forming part of the capital, and the amount of such note, shall be returned to the said auditor; and the corporators or officers of such company shall be required to certify, under oath, that the capital exhibited to those persons is bona fide the property of the company. Such certificates shall be filed in the office of the said auditor, who shall thereupon deliver to such company a certified copy of said certificates, which, on being placed on record in the office of the recorder of the county where the company is to be located, by the recorder, in a book provided for that purpose by him, shall be their authority to commence business and issue policies; and such certified copy of said certificates may be used in evidence for or against said company, with the same effect as the originals.

Examina-
tion of stock,
capital, &c.

Certificates.

SEC. 2. That section fifteen of said act be so amended as to read as follows:

Section 15. It shall not be lawful for the directors, trustees, managers or officers of any insurance company organized under any of the laws of this state, directly or indirectly, to

Dividends,
&c.

make or pay any dividend, or pay any interest, bonus or other allowance in lieu of dividends, except from surplus profits arising from their business; and in estimating such profits there shall be reserved therefrom a sum equal to forty per cent. of the amount received for premiums on unexpired risks and policies, which shall be held to be the amount of unearned premiums, and shall be held and regarded as an absolute liability of the company. And there shall also be reserved all interest due or accrued and unpaid, and the amount of all bonds, mortgages, notes, stocks, book accounts and judgments due to or held by the company, on which no part of the principal or interest shall have been paid during the year previous. And any dividend or payment made contrary to the provisions of this section, shall subject the company making the same to a forfeiture of its charter.

SEC. 3. That section twenty-two of said act be so amended as to read as follows:

Auditor to
furnish printed
forms.

Section 22. It shall be the duty of the auditor of state to prepare and furnish, annually, to each company organized under the laws of this state, and to the agents or officers of each company organized under the laws of any other state or government, and doing business in this state, printed forms of the statements required by this act; and he may, from time to time, make such changes in the form of such statements as shall seem to him best adapted to elicit from the companies a true exhibit of their condition in respect to the several points hereinbefore enumerated, and in such other respects as he may deem advisable.

SEC. 4. That section twenty-three of said act be so amended as to read as follows:

Printing of
report.

Section 23. The auditor of state shall, on or before the fifteenth day of March, annually, cause the information contained in the statements required in the foregoing sections to be arranged in tabular form and prepare the same for printing in a single document, including a report of the receipts and expenditures of his office in the insurance department, for the year ending on the fifteenth day of the preceding November; and three hundred copies of said report shall be printed for the use of the general assembly, and fifteen hundred copies for the use of the auditor of state, and five hundred copies of the latter shall be bound in cloth.

SEC. 5. That section twenty-four of said act be so amended as to read as follows:

Insurance by
foreign com-
panies.

Section 24. It shall not be lawful for any insurance company, association or partnership, incorporated, organized or associated under the laws of any other state of the United States or any foreign government, for any of the purposes mentioned in this act, directly or indirectly, to transact any business of insurance in this state without first procuring from the auditor of state a certificate of authority so to do; nor shall it be lawful for any person or corporation, directly or indirectly, to act as agent in this state for any such company or association, either in procuring applications for insurance, taking risks, or in any manner transacting the business

of insurance, without first procuring from the auditor of state a license so to do, stating also that said company has complied with all the requisitions of this act applicable to such company, and depositing a certified copy of such license in the office of the recorder of the county in which the office or place of business of such agent or agents may be established; nor shall it be lawful for any insurance company, association or partnership mentioned in this section, directly or indirectly, to take risks or transact any business of insurance in this state, unless possessed of the amount of actual capital required of similar companies formed under the provisions of this act; and any such company desiring to transact any such business as aforesaid, by any agent or agents, in this state, shall file with the auditor of state a written instrument, duly signed and sealed, authorizing any agent or agents of such company in this state, to acknowledge service of process for and in behalf of such company in this state, consenting that service of process, mesne or final, upon any such agent or agents, shall be taken and held to be as valid as if served upon the company according to the laws of this or any other state or country, and waiving all claim or right of error by reason of such acknowledgment or service. Waiving all right to transfer or remove any cause then or thereafter pending in any of the courts of this state, wherein said company is or shall be a party to any of the courts of the United States; and if said company shall cease to do business in this state, or in any county thereof, where it had previously transacted insurance business according to law and have any of its policies outstanding in the hands of any resident of this state, that suit may be brought thereon in the county where the property insured was situated or where the same was insured, and service of process made therein by the sheriff of such county, by sending a copy thereof by mail addressed to the company at the place of its principal office when it ceased to do business as aforesaid at least thirty days prior to taking judgment in said suit, and that service of process thus made shall be as valid as if personally made upon said company according to the laws of this or any other state or government. And the sheriff's return shall show the time and manner of such service, and also a certified copy of their charter, or deed of settlement, together with a statement, under the oath of the president or vice president, or other chief officer, and the secretary of the company, for which he or they may act, stating the name of the company and place where located; the amount of its capital, with a detailed statement of the facts and items as required from companies organized under the laws of this state, as per section nineteen; also a copy of the last annual report, if any, made under any law of the state by which such company was incorporated; and no agent shall be allowed to transact business for any company whose capital is impaired to the extent of twenty per cent. thereof, while such deficiency shall continue.

SEC. 6. That section twenty-five of said act be so amended as to read as follows:

Deposit of
stocks by for-
eign compa-
nies.

Section 25. Any company incorporated by or organized under the laws of any foreign government, shall, in addition to the foregoing, deposit with the auditor of state, for the benefit and security of policy holders residing in this state, a sum not less than one hundred thousand dollars in stocks of the United States or of the state of Ohio, in all cases to be, or to be made to be, equal to a stock producing six per cent. per annum, said stocks not to be received by said auditor at a rate above their par value, or above their current market value; or in bonds and mortgages on improved unincumbered real estate in the state of Ohio, worth fifty per cent. more than the amount loaned thereon; the stocks and securities so deposited may be exchanged from time to time for other securities receivable as aforesaid, and so long as the company so depositing shall continue solvent and comply with the laws of this state, may be permitted by said auditor to collect the interest or dividends on said deposit; and where a deposit is made of bonds and mortgages, accompanied by full abstracts of title and searches, the fees for an examination of title by counsel to be paid by the party making the deposit, shall not exceed twenty dollars for each mortgage; and the fees for an appraisal of property shall be five dollars to each appraiser, not exceeding two, besides expenses for each mortgage.

Fees.

SEC. 7. That section twenty-six of said act be so amended as to read as follows:

Annual
statement to
auditor of
state.

Section 26. It shall be the duty of the president, vice president or other chief officer or manager of every insurance company, association or partnership organized under the laws of any other state of the United States, annually, in the month of January, to make, under their oaths, and deposit with the auditor of state, a statement of the condition of such company on the next preceding thirty-first day of December, exhibiting all the facts and items mentioned in the nineteenth section of this act, and such others as may be required by the auditor of state; and said auditor, upon receipt of such statement, with the charges for filing the same, and being satisfied of the soundness and reliability of such company, shall renew the certificate of authority of such company, and upon payment of the proper charges renew the licenses to all the duly appointed agents of such company to act as such, until the thirty-first day of January next after the date of such license. The agent to whom any such license shall be issued, shall deposit a certified copy thereof in the office of the recorder of the proper county, as is required by the twenty-fourth section of this act. The statements and evidences of investments required of companies organized under the laws of any foreign government, shall be renewed from year to year in such manner and form as may be required by said auditor, with an additional statement of the amount of premiums received and losses incurred in this state during the preceding year, so long as such agency continues; and

Renewal of
investments.

the said auditor, on being satisfied that the capital, securities and investments remain secure, as hereinbefore provided, shall furnish a renewal of his certificate as aforesaid, and the agent or agents obtaining such certificate shall cause the same to be recorded in the office of the recorder of the county in which such agency shall be established, within the month of January; the fees for each certificate of authority and certified copy thereof shall be five dollars. But any company organized under or incorporated by any foreign government may furnish and file such annual statements and evidences in the month of November in each year, made out for the year ending on the preceding thirty-first day of December; provided, that such company shall also furnish a supplementary statement during the month of January, for the year ending on the preceding thirty-first day of December, verified by the manager of such company residing in the United States; such supplementary statement shall comprise a report of their business and affairs in the United States, as required from companies organized in this state, together with any other information that may be required by the auditor of state.

Renewal of
certificates.

SEC. 8. That section twenty-seven of said act be so amended as to read as follows:

Section 27. Any violation of any of the provisions of this act relating to companies, associations or partnerships organized under the laws of any other state of the United States or the laws of any foreign government, shall subject the party violating to a penalty of five hundred dollars.

Penalty for
violation by
foreign com-
panies.

SEC. 9. That section twenty-eight of said act be so amended as to read as follows:

Section 28. All the provisions of this act relating to insurance companies organized under the laws of any other state of the United States, shall apply to any company organized under the laws of the United States for any of the purposes specified in this act, and all the provisions of this act relating to agents of companies organized under the laws of any such other state, shall apply to agents of such companies organized under the laws of the United States, and any violation of the provisions of this act by any person or agent in the employment of any such company organized under the laws of the United States, shall subject the offender to the same penalties provided by this act for any violation of its provisions by persons acting for similar companies organized under the laws of any other state of the United States.

Applicable to
companies
under United
States laws,
&c.

SEC. 10. That section thirty-two of said act be so amended as to read as follows:

Section 32. The auditor of state shall be authorized to examine into the affairs and condition of any insurance company now or hereafter authorized to transact business in this state, not organized under the laws of this state, or cause such examination to be made by a person appointed by him; and he may also submit to such company inquiries in writing, to be answered under oath by the same officers who are re-

When audi-
tor may sus-
pend or re-
voke author-
ity given, &c.

quired by this act to make oath to their annual statements; and if such company shall refuse or neglect to submit to an examination under oath, or refuse to exhibit their books and papers to the inspection of said auditor or the person appointed by him, or to make a full, accurate and sworn statement of their affairs to said auditor or the person appointed by him, or shall neglect or refuse within a reasonable time to answer under oath all written inquiries submitted to them by said auditor, or if upon examination or other satisfactory proof said auditor shall be of opinion the affairs of any such company are in an unsound or unsafe condition, he shall either suspend or revoke the authority of such company to transact business in this state as he shall deem the public interests may require, and shall cause notice thereof to be published in some newspaper published in the city of Columbus; and after the publication of such notice it shall not be lawful for the agents of such company to issue any new policy, renew any previously issued, or transact any business of insurance for said company in this state, except to settle and close up their previous business, until such suspension shall be removed or license renewed by the auditor of state.

SEC. 11. That section thirty-four of said act be so amended as to read as follows:

Fees of recorder.

Section 34. Each county recorder shall receive for filing each certified copy of a license deposited with him under this act, and receipting therefor, the sum of twenty-five cents; and he shall give the party depositing the copy a receipt showing that such party deposited the same, and the date of such deposit.

SEC. 12. That section thirty-five of said act be so amended as to read as follows:

Fees to be paid by companies.

Section 35. There shall be paid to the auditor of state by each company, association, partnership, individual or agent to whom this act shall apply, the following fees, to wit: For filing and examination of the first application of a company or other applicant and issuing the certificate of authority thereupon, thirty dollars; for filing the annual statement required by this act, twenty dollars; for each certificate of authority and certified copy thereof, five dollars; for each license to an agent and certified copy thereof, five dollars; for every copy of a paper filed as herein provided, ten cents per folio; and for affixing the seal of the auditor of state thereto and certifying the same, one dollar; for each certificate for publication, one dollar; all of which fees shall be paid into the state treasury by the auditor of state; provided, that any company may pay into the state treasury the sum of two hundred and fifty dollars, and upon such payment shall be entitled to license for any number of agents it may appoint in this state, without further charge for such licenses.

SEC. 13. That section thirty-seven of said act be so amended as to read as follows:

Auditor's certificate to companies.

Section 37. It shall be the duty of the auditor of state to give to each company of the kind provided for in this act,

which shall have complied with the provisions of this act, whether organized under the laws of this state or of any other state or government, a certificate for publication, stating that said company has in all respects complied with the laws of this state relating to insurance, and showing from the sworn statement of the company on file in his office the actual amount of its paid up capital, the aggregate amounts of its assets and liabilities on the thirty-first day of December next preceding the date of said certificate, and the aggregate amounts of its income and expenditures for the year ending on said thirty-first day of December; and it shall be the duty of said company once a year to publish said certificate in some newspaper published in each county in which such company shall have an agency or place of business; and the failure to make such publication in any such county shall subject said company and its agent or agents in such county, each, to a penalty of one hundred dollars, to be collected as other penalties prescribed by this act. And every agent of any insurance company shall, in all advertisements of his agency, state the location of the company he represents, giving the name of the city, town or village, and the state or government under the laws of which such company shall have been organized.

Publication
of certifi-
cate.

SEC. 14. That section thirty-nine of said act be so amended as to read as follows:

Section 39. Any company heretofore organized under any law of this state for any of the purposes mentioned in this act, which has taken notes or obligations of its stockholders for any portion or portions of the amount subscribed by them to its capital stock, shall retain from any dividend declared to such stockholders, their heirs or assigns, fifty per cent. of the amount of such dividend, and apply the same as a credit upon such stock notes until such notes shall be fully paid; and the whole amount now or hereafter payable to any such company on stock notes or obligations, shall, within five years from the first day of July, A. D. 1869, be collected and invested by said company in the manner required by the sixth section of this act; and any joint stock insurance companies of the kind contemplated in this act, heretofore organized under the laws of this state, with a less capital than one hundred thousand dollars, shall, within five years from the first day of July, A. D. 1869, increase its capital stock to at least one hundred thousand dollars, paid up and invested in the manner required by the sixth section of this act; and all mutual insurance companies of the kind contemplated by this act, heretofore organized under the laws of this state, shall, within two years from the first day of July, A. D. 1869, be possessed of the capital premiums, bona fide engagements of insurance or other securities required by the third section of this act; and any company failing to comply with any of the provisions of this section, shall forfeit its charter.

Payment of
stock notes.

Increase of
capital
stock, &c.

SEC. 15. All buildings heretofore or hereafter insured by any mutual insurance company, shall be pledged to such company, together with the right and title of the insured, in the lands upon which they are situate, to the amount of the pre-

Lien upon
buildings for
insurance.

minum note of the insured ; and the company shall have a lien thereon to the amount of such note, but the lien of the company shall not take effect until the company shall file with the recorder of the county in which the property insured is situate, a certificate stating the date, number and amount of such premium note, and such a description of the property insured as will enable any one readily to identify the same. The recorder shall record and index said certificate in his book of liens, for which he shall receive the sum of fifty cents ; and all liens heretofore acquired by any such insurance company, shall continue in force under this act.

General
agents of for-
eign compa-
nies.

SEC. 16. A general agent for this state may be appointed by any insurance company not organized under the laws of this state, by a resolution of the board of directors or managers of such company, with power to appoint other agents for such company ; and if such appointment be made, a certified copy of such resolution under the corporate seal of such company, shall be filed in the auditor of state's office before the right of such general agent to appoint other agents shall be recognized. Agents for any insurance company, whether organized under the laws of this state or any other state or government, may also be appointed by the president or other chief manager or secretary of such company in writing, with or without the seal of such company ; and the agents appointed, either by the president, chief manager, secretary or the general agent authorized as aforesaid, shall be held to be the agents of such company for all the purposes mentioned in this act. The term agent or agents, used in this act, shall be held to include an acknowledged agent, surveyor and all other parties who shall, in any manner directly or indirectly, aid in transacting the business of insurance ; and the provisions of this act shall apply to all companies, partnerships, associations and individuals, whether incorporated or not.

Securities to
be deposited
with state
treasurer.

SEC. 17. All bonds and other securities heretofore or hereafter deposited with the auditor of state by any insurance company, shall be deposited by said auditor with the treasurer of state for safe keeping, and the treasurer of state and his sureties shall be responsible for the safe keeping thereof ; and said treasurer shall deliver such bonds or other securities, or the coupons thereto attached, to the parties entitled thereto upon the written order (only) of the auditor of state.

When securi-
ties may be
delivered to
companies.

SEC. 18. Any bonds or securities heretofore deposited with the auditor of state by any insurance company, under the act entitled an act to regulate insurance companies not incorporated by the state of Ohio, passed April 8, 1856, shall not be delivered to such company without compliance with the conditions prescribed by said act for their delivery.

Inquiry into
charges of
false state-
ments, &c.

SEC. 19. If any responsible party shall file with the auditor of state, written charges against any insurance company alleging that any return or statement filed by said company with said auditor is false, or that the affairs of such company are in an unsound condition, said auditor may, by himself or agent, examine into the affairs and condition of such company, and if he shall deem it just so to do, may, in such case,

require such company to pay the expenses of such examination.

SEC. 20. It shall not be lawful for any person, company or corporation in this state, either to procure, receive or forward applications for insurance in any company or companies not organized under the laws of this state, or in any manner to aid in the transaction of the business of insurance with any such company or companies, unless duly authorized and licensed so to do in conformity to the provisions of this act; and any violation of the provisions of this section, shall subject the violator to a penalty of five hundred dollars for each offense, which shall be collected in the same manner as penalties provided for in the act to which this act is amendatory and supplemental.

Penalty for unauthorized transactions.

SEC. 21. The act entitled "an act to authorize the incorporation of mutual insurance companies," passed April 14, 1857; the act to amend the act last aforesaid, passed March 25, 1859; the act to amend the act first above named, passed April 3, 1862; the act entitled "an act to amend an act entitled an act to authorize the incorporation of mutual insurance companies," passed April 14, 1857, and an act amendatory thereto, passed April 13, 1863; the act entitled an act to authorize the incorporation of joint stock insurance companies, passed April 11, 1856; the act to amend said act of April 11, 1856, passed March 10, 1864; the act of April 13, 1865, to amend said act of April 11, 1856; the act entitled an act to amend sections two and nine of an act entitled "an act to authorize the incorporation of joint stock insurance companies," passed April 14, 1856; passed March 16, 1865; the act of April 5, 1866, entitled "an act to amend section nine of an act entitled an act to authorize the incorporation of joint stock insurance companies," passed April 11, 1856; an act to regulate insurance companies not incorporated by the state of Ohio, passed April 8, 1856; an act to amend an act entitled "an act to regulate insurance companies not incorporated by the state of Ohio," passed February 9, 1864; an act to regulate foreign insurance companies, passed April 5, 1866; an act to change the location of the principal office of insurance companies, passed April 10, 1862; and the seventh, fifteenth, twenty-second, twenty-third, twenty-fourth, twenty-fifth, twenty-sixth, twenty-seventh, twenty-eighth, thirty-second, thirty-fourth, thirty-fifth, thirty-seventh and thirty-ninth sections of the act to which this is amendatory and supplemental, be and the same are hereby repealed; but all charters obtained under any of the acts hereby repealed, and all rights of action and of property acquired by any company under any of the acts hereby repealed, shall be retained as fully as if said act or acts had not been repealed, subject, however, to the provisions of this act and to the act to which this is amendatory and supplemental.

Acts repealed.

Sections repealed.

Saving clause.

SEC. 22. This act shall take effect from its passage.

F. W. THORNHILL,

Speaker of the House of Representatives.

J. C. LEE,

President of the Senate.

Passed May 7, 1869.

AN ACT

Supplementary to an act entitled "An act to authorize Receivers of Insolvent Railroad Companies to sell unfinished road beds and franchises," passed May 14th, 1868. (65 O. L., 192.)

Rights of
purchasers of
roads to sell,
&c.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the purchaser or purchasers of the real and personal property, road beds, rights of way, fixtures and franchises of any railroad company in the state of Ohio that have been or shall hereafter be sold pursuant to judicial order, judgment or decree, and which sale has been confirmed by the court making the order of sale, may sell the same, or any portion thereof, and the title thereto, with all the rights, liberties, faculties and franchises, shall pass by such sale and vest in the purchaser or purchasers thereof, as fully as the same had been possessed, exercised and enjoyed by such railroad company, and which passed by said judicial sale, which grant, being in the same form as by law required to pass real estate, shall be recorded in the record of deeds of the county or counties in which said real or personal property is situated, and said rights and franchises are or may be exercised.

Who may
become pur-
chasers.

SEC. 2. That any railroad company organized or existing under the laws of this state, may become the purchasers of such property, as provided in the first section of this act; and any number of persons, not less than five, may become the purchasers of such road, road bed, rights of way, property and franchises, as provided herein, and upon filing a copy of said grant in the office of secretary of state, shall become a corporation, with perpetual succession, by such name as they may assume to themselves under the general laws of this state regulating corporations, and shall hold the property, rights and franchises so purchased free and discharged from all liability for the debts of such original corporation; and it shall be lawful for said railroad company or persons as aforesaid, being the purchaser or purchasers of said property, who shall in good faith commence the construction of any portion of the railroad so acquired and made expenditures thereupon, to proceed in the construction of said railroad and complete the same, at any time within five years from and after the time of acquiring possession of said property under said purchase, notwithstanding the act incorporating said original company or any laws of this state require the completion sufficient for use of such railroad, or any specific part thereof, within any limited period therein prescribed.

SEC. 3. This act shall take effect from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed May 7, 1869.

AN ACT

To prevent citizens and corporations of this state from being concluded by judgments rendered in other states, where by mistake or fraud no actual service was made upon the defendants.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That in all actions pending or hereafter to be brought in any of the courts of this state against any citizen of this state, upon any judgment by default rendered in the courts of any other state or country, it shall be lawful for the defendant or defendants to aver and prove that he or they had not been served with process in such original suit or proceeding, unless it shall appear by such record that he or they had been personally served with process, or notified of the pendency of such action in the manner provided by the laws of the state or country in which such judgment was rendered.

Proof of no personal service allowed.

SEC. 2. That in all such actions against corporations created by the laws of this state upon records of judgments by default rendered in the courts of any other state or country, where it appears that the original process was served upon any person represented to be an officer, employe or agent of such corporation, it shall be lawful for the defendant to aver and prove that the person so served was not at the time of such alleged service, an officer, agent or employe of the defendant.

Alleged service on agents, &c.

SEC. 3. That this act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives,
J. C. LEE,
President of the Senate.

Passed May 7, 1869.

AN ACT

To require Railroad companies to drain water from the sides of their road-beds in certain cases.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That where the road-bed of any railroad in this state extends through or by any land, except swamp land, it shall be the duty of the company or companies, person or persons operating the same, to construct and keep open such ditches or drains of sufficient depth, width and grade as will conduct to some proper outlet, all water that may accumulate along the sides of such road-beds, and that results from the construction or operation of such road.

Railroad companies must keep open ditches, drains, &c.

Charge of
neglect to be
investigated.

SEC. 2. If, at the expiration of six months from the passage of this act, and after ten days notice or request to any ticket or other agent to provide such drain or ditch preferred by the person or persons authorized to institute the proceedings hereinafter provided for, the provisions of the foregoing section have not been complied with, any person or persons being owners or tenants of any land contiguous to such railroad, feeling aggrieved by such neglect, may notify the probate judge of the county in which such neglect occurs of the fact, designating in such notice the place or places on such road where such drains or ditches have not been made; and upon the receipt of such notice, it is hereby made the duty of such probate judge to appoint a commission, composed of three disinterested freeholders of said county, who, together with the county surveyor, shall proceed to the place designated in said notice, and if, upon inspection, it is found that the provisions of the first section of this act are not complied with, the commission, or a majority of such commission, shall report the same to such probate judge, who shall keep a record of such proceedings. Said probate judge shall designate a time within which the requirements of this act shall be enforced, and shall forthwith notify in writing, the company or companies, person or persons operating such road, whose duty it shall be to open such ditches or drains within the time specified.

When drain-
ing, &c., may
be let to
lowest bid-
der.

SEC. 3. In case said company or companies, person or persons operating such road, neglect to comply with the request or notification of said probate judge, he shall forthwith, by advertisement for three consecutive weeks, in one or more of the weekly newspapers published in such county, give notice that the work of opening the ditches or drains will be let to the lowest bidder at such time and place as may [be] designated in such advertisement.

Duties of
probate
judge.

SEC. 4. Said probate judge shall, pursuant to said notice, at the time and place specified in said advertisement, sell the job or jobs of opening said ditches or drains to the lowest bidder, and to take from such bidder a sufficient bond, with surety, for the performance of said job or jobs, and upon the completion thereof, to the satisfaction of said probate judge, he shall give the bidder a certificate therefor, stating the amount due for such work. Upon presentation of such certificate to the auditor of said county, he shall place the amount so certified forthwith upon the tax duplicate of said county against said railroad, together with all the costs and expenses for inspection by commission and surveyor, notices, advertisements, sale of work, making contract therefor, approval of such work and other costs, and interest on the amount certified to be due for doing said work from the time said work is approved until said amount can be collected by the treasurer of the county. Said tax shall be collected as other taxes are, and be paid to the persons entitled thereto, on the warrant of the county auditor on the treasurer.

SEC. 5. The probate judge, commission and surveyor, shall have for their services, and be allowed for such costs, fees and expenses as now are or may be provided by law for costs, fees and expenses of county commissioners and others, under proceedings for locating, establishing and causing to be opened, ditches, drains and water-courses.

Fees of
probate judge,
&c.

SEC. 6. This act shall take effect from its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed May 7, 1869.

AN ACT

To authorize City Councils of cities of the first class having a population of over one hundred and fifty thousand inhabitants, to issue bonds for Public Avenue and Sewer purposes.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the city council of any city of the first class having a population of over one hundred and fifty thousand inhabitants, wherein a public avenue of not less than ninety feet in width is now projected and established, but unimproved and with a sewer partially constructed in such avenue, are hereby authorized to issue the bonds of such city in any sum, not to exceed one hundred (\$100,000) thousand dollars, for constructing such sewer, bearing a rate of interest, not to exceed seven and three-tenths per cent. per annum, at such dates and for such length of time as they may deem expedient, the same to be sold at not less than par, and to be applied exclusively to the above named purposes.

Bonds for
avenue or
sewer pur-
poses.

SEC. 2. Whenever any of the bonds herein provided for shall be for sale, not less than ten days' previous notice thereof shall be advertised in such city; said advertisement to be published daily until the day of sale, the same to specify that sealed bids will be received at a place and until a day and hour designated. The bids shall then be opened and read in the presence of the bidders present, and the bonds shall be sold to the highest bidder, the city, however, reserving the right to reject all bids.

Notice of
sale or

SEC. 3. This act shall be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed May 7, 1869.

AN ACT

To amend section two of an act entitled "An act to authorize county commissioners to purchase Toll Bridges and make them free," passed March 8, 1869.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section two of the above recited act be so amended as to read as follows:

Bonds may
be issued for
bridge pur-
poses.

Section 2. That for the purpose of paying such agreed price or any part thereof, said commissioners are hereby authorized to issue the bonds of the county, in sums of not more than five hundred dollars each, payable in installments, during a period not exceeding twenty years from the date thereof, with interest not exceeding the legal rate, payable semi-annually; which bonds shall not be sold at less than their par value.

Repeal.

SEC. 2. That section two of the above recited act be and the same is hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

F. W. THORNHIL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed May 7, 1869.

AN ACT

To improve the law of Evidence concerning the titles of real estate.

Evidence of
possession of
land sold for
taxes.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That in all cases where unoccupied or improved real estate has been or shall be sold at any tax sale in this state, and the purchaser thereof has received, or shall receive a deed therefor, and said real estate has been or shall, from and after said sale, be placed upon the tax duplicate of the proper county in the name of said purchaser or those claiming title under him, and be so continued upon said duplicate, and said purchaser or those claiming under him, shall from and after said sale, openly and notoriously claim the title and ownership of said real estate and pay the taxes thereon from and after said sale, the same shall, as against any title acquired by deed executed after such tax sale, be held and deemed in all cases in all courts, as prima facie proof of the possession of said real estate by said purchaser or those holding under said purchaser from and after the date of said sale, until the said sale has been or shall be set aside in a civil action or suit, in a court of competent jurisdiction, or

has been redeemed according to the laws of this state; and as to all persons acquiring title by deed executed after such tax sale, having knowledge of said sale and the payment of taxes and claim of title and ownership as aforesaid, said facts aforesaid shall be taken as conclusive proof of such possession, and be so held by all courts in this state in all cases.

SEC. 2. This act shall be in force from and after its passage, and its provisions shall apply to all tax sales heretofore or hereafter made in this state. Application.

F. W. THORNHILL,
Speaker of the House of Representatives.

J. C. LEE,
President of the Senate.

Passed May 7, 1869.

AN ACT

To amend sections two and three of an act to authorize the erection, improving, enlarging or constructing additions to Town Halls, passed April 2, 1866. (S. & S., page 783.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That sections two and three be so amended as to read as follows:

Section 2. That every voter who is in favor of levying a tax on all the property of the township as aforesaid for the erection of such hall, or for improving, enlarging or constructing additions to town halls already erected, as the case may be, shall indorse on his ballot "town hall," "improvement town hall," "enlargement town hall," or "addition town hall," as the case may be; and if a majority of all the ballots cast at said election are indorsed as aforesaid, then the trustees of such township shall, on or before the first day of June thereafter, inform the auditor of the proper county of the vote of the electors in such township, as expressed at said election; and the county auditor shall levy a tax on all the property of such township standing on the grand list for the purpose aforesaid; and the said trustees of any township shall have power to purchase grounds, or to receive by devise or deed of gift for the conveyance of real estate for said purpose; and it shall be lawful for the trustees of any township in which a town hall shall have been erected at any time, to levy a tax upon all the property of said township, subject to taxation for the purpose of painting, repairing, or discharging any existing debt incurred in the erection or purchase of such hall, or in the improving, enlarging or constructing additions to such hall, provided the amount of taxes under the provisions of this act shall in no case exceed four mills on the dollar in any one year, on the taxable property of any township; provided

Election—
indorsement
on votes.

County au-
ditor to levy
tax.

Trustees
may pur-
chase
grounds, &c.

Limitation
of taxation.

further, that the trustees of any township, or their successors in office, shall not levy a tax for the erection of any town hall, nor for the painting, repairing or enlarging of any town hall already erected, for a period not longer than seven years; and the tax so levied shall be collected by the county treasurer in the same manner and at the same time that state and county taxes are collected, and by him paid on the order of the county auditor, to the trustees of such township raising the same.

Hall and
grounds to
be under
control of
trustees, &c.

Section 3. That said hall and the grounds upon which it is erected or purchased for the erection of a town hall, shall be under the control of the trustees of the township, and the trustees of such township shall have power to sell and convey any lot or grounds which may have been purchased by such trustees for said town hall, at any time previous to the erection of such town hall on said lot or grounds, whenever a majority of the qualified electors at any general election of such township shall vote in favor of selling the same and purchasing grounds elsewhere; provided that ten days' previous notice shall be given by the township clerk, on the order of the township trustees or the written request of not less than ten legal voters of the township, by posting up printed or written notices in three of the most public places in said township; and all money arising from such sale shall be applied to the purchase of such other site as may be selected by the trustees of said township; provided further, that all townships, as aforesaid, that have heretofore voted for a town hall under the provisions of the acts heretofore repealed, and which have not yet levied the tax to build the same, are hereby authorized to levy said tax under the provisions of this act.

Repeal.

SEC. 2. That sections two and three be and are hereby repealed, and that this act be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed May 7, 1869.

AN ACT

Prescribing the rates of Taxation for state purposes for 1869, and to repeal section one of the act prescribing the rates of taxation for state purposes, passed April 5, 1866. (S. & S., 772.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio, That section one of the act entitled an "act prescribing the rates of taxation for state purposes, and to repeal a certain act therein named," passed April 5, 1866, be amended so as to read as follows:*

Section 1. That there shall be levied for the current year for state purposes, on each dollar of valuation of the taxable property in this state, as valued and entered on the grand list of taxable property, taxes at the rate herein specified, in lieu of the taxes heretofore authorized by law to be levied, namely: For the ordinary expenses of the state government, including the expenses of the benevolent institutions and other charges on the general revenue, one mill. For the erection and completion of a building at the city of Columbus for the care of the insane, to be known as the Central Ohio Lunatic Asylum, and for the erection and completion of a building at said city for an institution for the education of the blind, five-tenths of one mill. For the sinking fund, applicable to the payment of the principal and interest of the debts of the state, seven-tenths of one mill; and for the support of common schools, one mill and three-tenths of one mill.

Rate of levy
for state pur-
poses.

For new cen-
tral lunatic
and blind
asylums.

For sinking
fund.

For common
schools.

SEC. 2. That said section one of the above recited act be and the same is hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,

Speaker of the House of Representatives.

J. C. LEE,

President of the Senate.

Passed May 7, 1869.

AN ACT

To amend an act passed March 9, 1835, entitled "an act to amend the act entitled 'an act for the punishment of certain offenses therein named,'" passed March 8, 1831. (S. & C., 439.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That if any person shall steal any money or goods and chattels of any kind whatever, of less value than thirty-five dollars, the property of another, or shall steal or maliciously destroy any money, promissory note, bill of exchange, order, draft, receipt, warrant, check, or bond given for the payment of money, or receipt acknowledging the receipt of money or other property of less value than thirty-five dollars, every person so offending, on conviction thereof, shall make restitution to the party injured in two fold the value of the property stolen or destroyed, and be fined in any sum not exceeding two hundred dollars, or shall be imprisoned in the county jail for any time not exceeding thirty days; and the court may, in its discretion, upon suggestion of the prosecuting attorney, order that any person convicted under the provisions of this act, shall, during his term of sentence, be required to perform hard labor under such regulations as the county commissioners may prescribe. All or any of the foregoing punishments may be inflicted, at the discretion of

Petit lar-
ceny, de-
struction of
bank notes,
bonds, &c.

- Definition.** the court. The word money, in this section, shall be held to include bank bills or notes, United States treasury notes, or other bills, bonds or notes issued by lawful authority and intended to pass and circulate as money.
- Act repealed.** SEC. 2. That the act passed March 9, 1835, entitled "an act to amend the act entitled 'an act for the punishment of certain offenses therein named,'" passed March 8, 1831, be and the same is hereby repealed.
- Saving clause.** SEC. 3. This act shall take effect from and after the first day of June, 1869, and nothing herein contained shall affect the prosecution or punishment for offenses committed before the taking effect of this act.

F. W. THORNHILL,
Speaker of the House of Representatives.
 J. C. LEE,
President of the Senate.

Passed May 7, 1869.

AN ACT

To provide for taxing Bonds, Treasury Notes and Fractional Currency of the United States, held or owned by individuals, companies or corporations in this State.

- Cashiers, agents, &c., shall report all investments in bonds, &c.**
- SECTION. 1. *Be it enacted by the General Assembly of the State of Ohio,* That every person, the cashier of every national bank, the principal accounting officer or agent of any railroad company, or other incorporated company or association of individuals, doing business in this state, shall, on the first day of June, 1869, and annually thereafter, at such time as now is or may be prescribed by law for the assessment of personal property, make and deliver, to the assessor of each ward and township in this state, a true statement in writing, signed by the party, supported by oath or affirmation, to be examined by the assessor as in other cases, of all investments in bonds, treasury notes and fractional currency of the United States, owned by any person, national bank, railroad company or other incorporated company or association doing business in this state, or held in trust by any person for the benefit of any other person or corporation; and all such bonds, treasury notes and fractional currency, shall be returned by the assessor in special lists, on or before the twentieth day of June, 1869, to the auditors of the several counties, and thereafter, annually, in the same lists with other taxable property, to the auditors of the several counties in this state, who shall cause the same to be placed on the duplicate for taxation; and all such investments in bonds, treasury notes and fractional currency, shall be taxed the same as other property is or may be taxed by the laws of this state; provided, that where the person, company, corporation or association owning such bonds, treasury notes or fractional currency, or holding them in trust for any other person or persons, company, corporation or association, shall neglect or refuse to make the returns required by this act, such assessors shall make such investi-
- Duty of assessors and auditors.**

gation in relation thereto as may be necessary to enable him to return the amount of the same; and the auditor shall place the same, with fifty per centum added thereto, on the duplicate for taxation, and the expenses of the assessor in making such investigation, shall be placed upon the duplicate and collected in the same manner as taxes are collected. Immediately after such return is made by the assessor, the auditor shall notify the party or parties interested, of the amount so returned and the expenses of such investigation.

SEC. 2. The taxes assessed on such bonds, treasury notes and fractional currency, shall be paid to the treasurer of the county in which said taxes are assessed, at the time or times fixed by law for the payment of taxes, by the owner of such bonds, treasury notes and fractional currency, or by the persons, company, corporation or association holding the same in trust, and if not so paid, shall be collected by such treasurer in the same manner as is provided by law for the collection of taxes on other personal property. In case any treasurer shall be restrained from the collection of such taxes by injunction or otherwise, the auditor of the county shall, from year to year thereafter, place the unpaid taxes upon the duplicate, with the interest and penalties now provided by law in relation to unpaid taxes on real estate for each and every year the same shall remain unpaid.

Taxes to be paid into county treasury.

Provision in case of injunction, &c.

SEC. 3. That if the county auditor shall, by injunction or other order of a court of competent jurisdiction, be restrained from placing upon the duplicate of such county the taxes assessed upon such bonds, treasury notes and fractional currency, or either, such auditor shall open an account, on a book to be provided for that purpose, in his office, against the owner of such bond, treasury notes and fractional currency, or either, or against the person, company, corporation or association holding the same in trust, in which he shall, annually, until such restriction be removed, make memoranda of the amount of bonds, treasury notes and fractional currency, or either, so returned by such assessor, together with the amount of taxes that should otherwise have been entered on the duplicate, with the interest and penalties provided against lands returned delinquent; and whenever such restrictions shall be removed, said auditor shall place on the duplicate of such county, the amount of such bonds, treasury notes and fractional currency, or either, so returned by the assessor each year during the time such restriction continued, in the name of the owner thereof, or the person holding the same in trust, with the amount of taxes that should have been assessed against the same each year, with the interest and penalty as aforesaid; and the same shall be collected by the treasurer in the same manner that other taxes against personal property are collected.

The same.

SEC. 4. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.

J. C. LEE,
President of the Senate.

Passed May 7, 1869.

AN ACT

To amend the act entitled "an act to provide for the Voluntary Dissolution of Corporations," passed April 15, 1867.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section first of an act entitled "an act to provide for the voluntary dissolution of corporations," passed April 16, 1867. [S. & S. 243,] be so amended as to read as follows;

Who may
apply for a
dissolution of
corporation.

Section 1. That whenever the directors, trustees or other officers having the management of the concerns of any corporation, or the majority of them, or whenever any number of stockholders, representing not less than one third of the capital stock of any corporation organized under the laws of this state, shall discover that the stock, property and effects of such corporation have been so far reduced by losses or otherwise, that it will not be able to pay all just demands to which it may be liable, or to afford a reasonable security to those who may deal with such corporation; or whenever such directors, trustees or officers, or a majority of them, or whenever any number of stockholders representing not less than one third of the capital stock of any corporation organized under the laws of this state, shall deem it beneficial to the interests of the stockholders, that such corporation should be dissolved, and when such directors, trustees or other officers shall be thereby authorized to apply for a decree as hereinafter provided for by a majority of the stockholders, or whenever the objects of such corporation shall wholly fail, or be entirely abandoned, or it shall be impracticable to accomplish such objects, they may apply to the court of common pleas of the county, or to the superior court of the city or county in which the principal place of conducting the business of such corporation shall be situated, by petition for a decree dissolving such corporation, pursuant to the provisions of this act.

Repeal.

SEC. 2. That said original section be and the same is hereby repealed.

F. W. THORNHILL,

Speaker of the House of Representatives.

J. C. LEE,

President of the Senate.

Passed May 7, 1869.

AN ACT

To amend section two of an act entitled an act to require mortgages or bills of sale of personal property to be deposited with township clerks, passed February 24, 1846, as amended by section one of an act entitled an act to amend section two of an act to require mortgages and bills of sale of personal property to be deposited with township clerks, passed April 11, 1863.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section two of the act first above named, as amended by section one of the act second above named, be so amended as to read as follows :

Section 2. The instruments mentioned in the preceding section shall be deposited with the clerk of the township in this state where the mortgagor shall reside at the time of the execution thereof, if a resident of this state, and if not a resident there, with the clerk of the township where the property so mortgaged shall be at the time of the execution of such instrument ; that the mortgagee, his agent or attorney, before the filing of such instrument with the township clerk, or in the office of the recorder of the county, as contemplated by said act, shall, in case the said instrument shall have been given to secure the payment of a sum of money only, enter thereon a true statement, in dollars and cents, of the amount of his claim, and that it is just and unpaid. And in case the said instrument shall have been given to indemnify the mortgagee against a liability as surety for the mortgagor, shall enter thereon a true statement of such liability, and that said instrument was taken in good faith to indemnify against any loss that may result therefrom ; which statement shall, in either case, be verified before some justice of the peace or other officer authorized to administer oaths.

Where mortgages, &c., to be deposited, and endorsement thereon.

SEC. 2. That said section one of said amendatory act of April 11, 1863, be and the same is hereby repealed.

SEC. 3. This act shall be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed May 7, 1869.

AN ACT

To enable cities of the first class that have been advanced to that grade between decennial periods and prior to May, 1867, to provide means to pay off the amount of certain assessments for the improvement and extension of Streets therein, which assessments have been declared by a court illegal.

Authority to
issue bonds
for improve-
ment of
streets, &c.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the city council of any city of the first class that has been advanced to that grade between decennial periods and prior to May, 1867, for the purpose of reimbursing the general fund of such city for any money paid out upon any contract made by such city council, for the improvement of any street or alley in said city, or upon assessment of damages made in any proper court to the owner or owners of property taken by direction of said city council, for the opening or widening or extending of any street or alley in said city, and for the purpose of paying off any indebtedness already incurred upon such contracts or assessment of damages, and for the payment of which, assessments have been made by said city council upon the lots bounding and abutting upon the streets or alleys so improved or opened, or widened, or extended, and which last mentioned assessments have been declared illegal by any proper court of this state, shall have the power, and they are hereby empowered to issue bonds of such city and to borrow money thereon, which bonds may be in such amounts and for such length of time, not exceeding twelve years, and at such rate of interest as such city council may deem proper, not to exceed seven per cent. per annum.

Provision
for sinking
fund to pay
them, &c.

SEC. 2. And when such bonds shall have been issued, a tax shall be assessed sufficient in amount to provide a sinking fund for their final redemption as they become due, together with the interest thereon, as provided in section ninety-one (as amended March 28, 1861) of the act to provide for the organization of cities and incorporated villages, passed May 3, 1852; provided the whole amount of bonds so issued under this act shall not exceed the sum of eighty thousand dollars.

To be used
for no other
purpose.

SEC. 3. And provided further, that the moneys arising from the sale of said bonds shall be applied to paying only the claims described above and now existing, or to reimbursing the general fund of such city for moneys paid out already or that may hereafter be paid out upon such claims.

SEC. 4. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed May 7, 1869.

AN ACT

To provide for the incorporation of certain Colleges therein described.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the trustees of any college heretofore incorporated by special act for a limited time, the capital stock of which is not divided into shares, may cause their college to be re-incorporated, with perpetual succession, as hereinafter provided.

Incorporation perpetual.

SEC. 2. That the trustees of any such college, by a resolution entered upon their minutes at a regular meeting, or at a special meeting convened for that purpose, may accept the provisions of this act; a copy of which resolution, certified by the president and secretary of the board of trustees, and authenticated by the corporate seal, if there be one, shall be deposited and recorded in the office of the secretary of state. And thereupon said college shall become and thenceforth remain a corporation by such name as the trustees in their resolution aforesaid may select.

Acceptance of provisions of this act.

SEC. 3. That every college so incorporated shall be capable of holding, receiving and acquiring by grant, gift, devise or bequest, or any form of purchase, real and personal property, money and choses in action, to such amount as shall be necessary and proper for the purpose of maintaining said college and carrying on its legitimate business, and no more, to be used, improved, expended, conveyed or transferred for the purposes or advantage of its corporate duty and trust, and for any church or chapel connected therewith.

Right of holding property, &c.

SEC. 4. That every such college shall be competent to sue and be sued, plead and be impleaded, by its corporate name as aforesaid, in all courts of judicature; to contract and be contracted with; and to buy, sell, and convey or release, by deed or other method of assurance, real and personal property and choses in action; to have a common seal, and the same at pleasure to break, alter and renew. And all vacancies in the board of trustees (which shall consist of seven members), occasioned by death, resignation, removal from the county in which the college is situated, or by neglect for the space of one year to attend the meetings of said board, may be filled by the choice of the remaining trustees or trustee. But no qualification shall be required for the office of trustee beyond actual residence in the county within which the college is situated, and citizenship of the United States.

Right to sue and be sued; vacancies in board, &c.

SEC. 5. That the trustees of such college shall have power to choose, from their own number or otherwise, a president, a secretary and a treasurer, and to appoint such professors, chaplains, teachers, assistants, agents and servants as they deem necessary or advisable, and to prescribe the duties and compensation of each; and to make, ordain and establish, from time to time, such by-laws, rules and regulations for conducting the affairs of said college as they shall think fit;

Appointment of officers, &c.

provided, that such by-laws, rules and regulations be not inconsistent with the constitution and laws of this state or of the United States.

Right to confer degrees.

SEC. 6. That said trustees shall have the right to confer on those whom they deem worthy, from time to time, all such degrees and honors as are usually conferred by colleges or universities.

Individual liability.

SEC. 7. That the trustees shall be liable, individually, for the debts of their college so re-incorporated, in excess of the value of its property and effects.

Mode of electing trustees, &c.

SEC. 8. That the trustees of any such college as is described in the first section of this act, in office by authority of the special act of incorporation, shall have power to elect or provide for the election of the first board of trustees hereby constituted, except that in all cases where, by the special act of incorporation, or by the terms of any endowment or accepted trust, the power of electing or appointing all or any member of the trustees has been conferred on any court, corporation, company or association, or on any officer, founder, donor, visitor, on any individual or class of individuals, that method shall be observed and continued. And nothing herein shall in anywise affect the colleges or universities intended by the act entitled an act to provide for the perpetuation of boards of trustees, and the appointment of visitors of universities and colleges, passed on the thirteenth day of May, in the year eighteen hundred and sixty-eight.

SEC. 9. This act shall be in force from the day of its date.

F. W. THORNHILL,

Speaker of the House of Representatives.

J. C. LEE,

President of the Senate.

Passed May 7, 1869.

AN ACT

For the protection of Fish in the inland lakes, ponds and reservoirs of this state.

Fishing by nets, &c., forbidden, except on one's own premises.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That it shall be unlawful for any person or persons to put in, keep up, draw or use any fish net, fish seine or fish pound for the purpose of catching fish in the waters of any lake, pond or reservoir, having a surface not exceeding one thousand acres, lying wholly within this state, whether the same be a natural or an artificial lake, pond or reservoir, or partly natural and partly artificial; provided, that nothing herein contained shall be construed to prevent the owners of lands or their lessees, whose lands are bounded on or by such lake, pond or reservoir, from using such fish net, fish seine or fish pound within their respective lines, but no further.

SEC. 2. That if any person or persons, violating the provisions of the first section of this act, shall be deemed guilty of a misdemeanor, and on conviction thereof before a court of competent jurisdiction shall be fined in any sum not less than ten nor more than fifty dollars, to be collected by a prosecution in the name of the state of Ohio, as other fines for crimes and misdemeanors of the second class; or, after the first offense, be imprisoned in the county jail, not exceeding thirty days, or both, at the discretion of the court.

Penalty for violation, &c.

SEC. 3. That the words fish net, fish seine and fish pound shall be held and construed to include all modes of catching fish in said lakes, ponds or reservoirs, by any trap or device, or other than hook and line or spear, of whatever material constructed.

Definitions.

SEC. 4. It shall be lawful for any person to take up, remove or clear away any fish net, fish seine or fish pound, placed or put in the waters of any lake, pond or reservoir contrary to the provisions of this act.

Any person may remove illegal seines, nets, &c.

SEC. 5. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed May 7, 1869.

AN ACT

To amend section one hundred and forty of "an act entitled an act to provide for the Settlement of the Estates of deceased persons," passed March 23, 1840. (S. & C., page 566.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section one hundred and forty of an "act to provide for the settlement of the estates of deceased persons," passed March 23, 1840, be so amended as to read as follows:

Section 140. If the deceased left a widow entitled to dower, the court shall appoint three judicious disinterested men of the vicinity to set off and assign by metes and bounds, in each, or one or more of the tracts of land (or specially as of the rents and profits if no division can be made) the dower of the widow of the deceased, and to appraise the premises subject to the incumbrance of the dower so assigned; provided, that if before such order for the assignment of dower and appraisement shall have been made, application shall have been properly and legally made in one

Dower, by whom and how assigned, &c.

of the federal courts of the United States for the assignment of such dower, and such federal court shall have thus acquired jurisdiction of such dower claim; the court in which the petition for the sale of land shall have been filed, may order such lands to be and the same may be appraised, subject to the incumbrance of said dower claim, without causing said dower to be assigned.

Repeal.

SEC. 2. Original section one hundred and forty, to which this is amendatory, is hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed May 7, 1869.

AN ACT

To amend an act entitled "An act to amend section seven of an act further to prescribe the duties of County Commissioners," passed April 8, 1856, as amended February 26, 1857. (S. & S., page 88.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section seven of the above recited act be amended so as to read as follows:

County commissioners to make annual report; investigation thereof, &c.

Witnesses may be subpoenaed, &c

Section 7. It shall be the duty of the county commissioners, annually, on or before the second Monday in September, to make a detailed report in writing, to the court of common pleas of the county, of their official transactions during the year next preceding the time of making said report, giving an accurate statement of the financial affairs of the county; and the court shall cause the same to be investigated and examined by the prosecuting attorney of the county, together with two suitable persons to be appointed by the court. To aid in their investigations, the persons so appointed with the prosecuting attorney to examine said report, shall have power, when in their opinion it is necessary, and the court shall so order, to subpoena witnesses to appear before them at such time and place as may be designated. Upon the filing of a præcipe with the clerk of the court of common pleas, he shall issue a subpoena, directed to the sheriff of the county, who shall serve the same and make return according to law. Such witnesses may be sworn before any officer authorized to administer oaths, and shall thereupon be compelled to answer such questions as may be put to them relative to the official transactions of the county commissioners. The clerk of the court shall certify all costs arising under these proceedings, to the auditor of the county, who shall draw orders upon the county treasury for the payment of the same. In case of any violation of law, the prosecuting attorney is hereby directed to

cause the same to be prosecuted according to the nature of the case; and if any county commissioners in this state fail or neglect to make the report required of them by this act, at the time therein required, they shall be fined in any sum not exceeding one hundred dollars; and it is hereby made the duty of the prosecuting attorney of any such county to prosecute, in the court of common pleas, as is provided by law in similar cases, any one or all of such county commissioners, who shall neglect or refuse to publish the required statement.

Penalty for failing to report.

SEC. 2. That section one of an act entitled "an act to amend section seven of an act further to prescribe the duties of county commissioners, passed April 8, 1856, as amended February 26, 1857," passed April 5, 1866, be and the same is hereby repealed.

Repeal.

SEC. 3. That this act take effect from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed May 7, 1869.

AN ACT

Supplementary to "An act requiring the Return of Statistics," passed April 3, 1868. (O. L., vol. 65, page 54.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the several township, ward or precinct assessors shall, in addition to the duties now required of them by law, annually, at the time of taking the lists of personal property for taxation, take from each person, company or corporation in his ward, township or precinct, the statements following:

Additional statistics to be obtained by assessors.

OF MANUFACTURES.

The number of tons of cold-blast pig-iron manufactured from native ore smelted with charcoal, and the number of tons of hot-blast pig-metal manufactured from the same material.

The number of tons of pig-metal made from native or foreign ore, smelted with stone coal.

The number of tons of bar and nail-rod iron manufactured.

The number of tons of nails.

The number of tons of hoop-iron.

The number of tons of sheet-iron.

The number of tons of stoves and hollow-ware.

The number of tons of all other castings.

The number of tons of spikes and railroad chairs.

The number of tons of car wheels.

The number of tons of railroad iron.

The number of locomotives built.

The number of steam engines constructed.

The number of plantation sugar-mills made.

The number of portable saw-mills made, and the number in use.

The number each of reaping and mowing machines.

The number of threshing machines.

OF WATER CRAFTS.

The number of steamboats built upon the Ohio river and its navigable tributaries, and the number of barges, flatboats and store boats, and the value of each.

The number of steamboats, and of sail vessels built upon Lake Erie and its tributaries within the borders of this state, and the value of each.

The number of canal boats built and used in navigating the canals.

OF MINES AND MINERS.

The number of bushels of stone coal mined.

The number of persons engaged in mining stone coal, and the average rate of wages paid.

The number of tons of iron ore mined.

The number of persons engaged in mining iron ores, and the average rate of wages paid.

The number of bushels of salt manufactured.

The number of gallons of petroleum produced.

The number of barrels of lime made.

The number of barrels of water cement.

The number of gallons of stone-ware made.

OF WAGES.

The number of adult male persons engaged in each of the mechanic arts, and the average monthly or daily wages of each, as the fact may be.

The number of common laborers, and the average daily wages of each.

The number of common farm laborers, and the average monthly wages of each.

The average monthly wages paid to clerks and salesmen engaged in stores and groceries.

The average monthly wages paid to book keepers.

MISCELLANEOUS.

The number of marriages between persons related to each other by blood, and the degree of such relationship.

The number of persons in any ward, township or precinct, born with imperfect senses, or idiots, and how many of such persons are the offspring of parents related to each other by blood.

The number of females found in any ward or wards of any city, engaged in prostitution, and the number of houses or places devoted to such purpose.

The number of dozens of eggs shipped to places outside the state of Ohio.

The number of hives of bees, and the number of pounds of honey produced.

SEC. 2. The statistics mentioned in the foregoing section, shall be certified by the several county auditors to the auditor of state, and the same shall be certified by said auditor of state to the secretary of state, who shall cause the same to be properly arranged, and printed in book form, as is now provided by law in other cases; and any person or persons who shall refuse to make out and deliver to the assessor a true statement of the facts required in this act and the act to which this is supplementary, shall forfeit and pay to the state of Ohio, any sum, not less than fifty nor more than one hundred dollars, for the use of the common schools of the proper county; and it is hereby made the duty of the prosecuting attorney of said county, on notice being given him by any person or persons, to proceed to collect said penalty, in the name of the state of Ohio, before any court [of] competent jurisdiction; and he shall receive ten per cent. of the amount collected for his fees for collecting the same; and this act shall be in force from and after its passage.

To be certified to auditor and secretary of state.

Penalty for refusing to give assessor true statements, &c.

F. W. THORNHILL,

Speaker of the House of Representatives.

J. C. LEE,

President of the Senate.

Passed May 7, 1869.

AN ACT

To provide for the purchase of certain lands for the use of the Public Works, at the Lewistown Reservoir.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the attorney general of this state is authorized and directed, without unnecessary delay, to purchase, on behalf of the state, from the widow and heirs of John Wolfe, deceased, the following described lands, situate in the township of Stokes, in the county of Logan, and state of Ohio, and being the southeast quarter of the southeast quarter of section twenty-seven, town six south, of range eight east, in the district of lands that were subject to sale at Lima, Ohio, containing forty acres; provided nevertheless, that such purchase shall not be made unless it can be done at a cost of not exceeding one thousand eight hundred and ninety dollars; and said lands shall not be paid for until there shall be executed by said widow and heirs, or by good and lawful authority on their behalf, and delivered to the attorney general, a good and sufficient deed conveying the said land in fee unincumbered to the State.

Attorney general to purchase certain lands.

SEC. 2. That there is hereby appropriated from any money in the treasury not otherwise appropriated, the sum of one

Appropriation therefor.

thousand eight hundred and ninety dollars, for the purchase of said lands of the said widow and heirs of John Wolfe, deceased, said purchase money to be certified for by the attorney general.

SEC. 3. That this act shall take effect and be in force from and after its passage.

F. W. THORNHILL,

Speaker of the House of Representatives.

J. C. LEE,

President of the Senate

Passed May 7, 1869.

LOCAL AND SPECIAL ACTS.

AN ACT

To authorize the County Commissioners of Shelby county, to apply certain funds in the county treasury to the completion of a county Infirmary in said county.

WHEREAS, By virtue of an act of the general assembly of the state of Ohio, entitled "an act granting additional authority to county commissioners for infirmary purposes," passed April 16, 1867, the commissioners of the county of Shelby laid the foundation for a new county infirmary in said county; and

WHEREAS, There is already in the county treasury of said county, about the sum of thirty thousand dollars, collected for the purpose of finishing said infirmary; therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the county commissioners of the county of Shelby be, and they are hereby authorized to contract for and finish the building of said county infirmary, at a cost not to exceed fifty thousand dollars.

SEC. 2. The commissioners of said county are hereby authorized and empowered to appropriate said moneys so as aforesaid collected, to the completion of said building, and also to levy taxes sufficient, in addition to said sum, to pay the balance required for the completion of the same; provided, they shall not levy for that purpose in any one year, to exceed two mills on the dollar of the valuation of all the taxable property within said county; provided, also, that all acts heretofore done by said commissioners for the purposes contemplated in this act, and not inconsistent with its provisions; and also all levies made by them on the taxable property of said county for the purpose of constructing said infirmary, shall be and are hereby declared valid for such purposes.

SEC. 3. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed January 21, 1869.

AN ACT

For the relief of Peter Frisinger, Treasurer of Willshire township, Van Wert county, Ohio.

WHEREAS, The dwelling house of Peter Frisinger, treasurer of Willshire township, Van Wert county, Ohio, was burglariously entered on the 15th day of February, A. D. 1865, and the bureau containing the pub-

lic money belonging to said township was broken open, and the sum of five hundred and sixty-two (\$562) dollars of said money was stolen therefrom; said sum so stolen has been paid by said treasurer to said township; and

WHEREAS, One hundred and seventy tax payers (being a majority of the citizens of said township) by their petition to this general assembly, represent that said robbery was not due to any fault or negligence on the part of said Peter Frisinger, and ask that said sum may be refunded to him; therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the trustees of said Willshire township, Van Wert county, be and they are hereby authorized to cause to be levied upon the taxable property of said township, a tax sufficient in amount to refund to said Peter Frisinger, the said sum of five hundred and sixty-two dollars.

SEC. 2. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed January 21, 1869.

AN ACT

For the relief of Thomas Cullen.

WHEREAS, On the second Monday of December (14) A. D. 1863, at a sale of lands and town lots forfeited to the state of Ohio, for non-payment of taxes, held at Troy, in Miami county, Ohio, there was sold by the auditor of said county, nine and one-fourth acres of the east part of the west part of section 29, town 1, range 11, M. R. S., in said county of Miami, to Thomas Cullen, at and for the sum of \$242.71, that being the amount of taxes and penalty assessed thereon, which sum was received by the auditor of said county, and by him duly paid over, in its respective proportions, to the state and county treasurers; and

WHEREAS, The court of common pleas in and for said county of Miami, declared said sale of said premises to said Cullen, illegal and void, by reason of excessive taxes and penalties assessed thereon, and ordered said premises to be sold on a judgment of foreclosure in favor of Levi Holtzy against John D. Chambers, the former owner of said premises; which sale was made on the 18th day of February, 1865; and

WHEREAS, It is alleged that a very large portion of the sum of \$242.71, taxes and penalty assessed upon said property, as aforesaid, was illegal, and ought of right and justice to be paid to said Cullen, but which is refused to be done for alleged want of legal authority; therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the auditor of state be directed and required to examine into said alleged claim of said Cullen; and if he shall find that said Cullen has paid illegal taxes as penalty or otherwise, to draw his warrant on the state treasurer for the amount of such illegal taxes or penalty as may have been paid into the said state treasury or gone to the credit of the State.

SEC. 2. That the auditor of Miami county be directed and required to ascertain what portion of said illegal taxes or penalty was paid into or went to the credit of the county treasury for any and all purposes whatsoever, and to draw his warrant therefor (with interest from the time of such payment or credit) upon the county treasurer of said county, who is required to pay the same out of any surplus or unexpended funds in the county treasury.

SEC. 3. This act shall take effect from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.

J. C. LEE,
President of the Senate.

Passed January 30, 1869.

AN ACT

To authorize the First Cumberland Presbyterian Church of Alexander, in Athens county, in the state of Ohio, to sell or dispose of their cemetery ground.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the trustees of the first Cumberland Presbyterian church of Alexander, in the county of Athens, in the state of Ohio, are hereby authorized and empowered to sell or dispose of the cemetery ground now owned by said church, to the Union Cemetery Association of Alexander, Athens county, state of Ohio, on such terms as said trustees may deem proper.

SEC. 2. This act shall take effect from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.

J. C. LEE,
President of the Senate.

Passed February 3, 1869.

AN ACT

To authorize the Board of Trustees in Goshen township, Tuscarawas county, Ohio, to borrow money and levy a tax for the same on the taxable property of said township, for Bridge purposes.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the board of trustees in Goshen township, Tuscarawas county, be and they are hereby authorized to borrow the sum of two thousand dollars, and to levy a tax upon the taxable property of said township for the year A. D. 1869.

SEC. 2. When the money is collected, it shall be used to pay off the money thus borrowed by said trustees, there being a deficiency, to build a

bridge across the Tuscarawas river at or near Blicktown, according to contract, the amount of levy of the commissioners of Tuscarawas county, Ohio, and private subscription being insufficient to complete the same.

SEC. 3. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed February 9, 1869.

AN ACT

To authorize the Council of the Incorporated Village of Georgetown, in Brown County, to issue bonds and borrow money to improve the streets of said village.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the council of the incorporated village of Georgetown, in the county of Brown, in the State of Ohio, be and are hereby authorized to issue the bonds of said village to the amount of fifteen hundred dollars, payable in one year, bearing a rate of interest not exceeding six per cent., payable semi-annually.

SEC. 2. That the bonds provided for in the preceding section, shall be signed by the mayor, attested by the recorder, and registered by date, number and amount, in the records of the recorder of said village, and sold in such manner as the council of said village shall direct; provided, said bonds shall not be sold for less than their par value.

SEC. 3. The corporate authorities of said village shall levy, for the year 1869, a special tax sufficient in amount to pay said bonds and interest, which shall be certified to the auditor of said county, placed on the duplicate against all the taxable property within the corporate limits of said village, and collected as other taxes by the county treasurer, and paid out upon the warrant of the county auditor upon the requisitions of the recorder of said village, to the parties entitled to receive the same; provided, if the said council shall reject or refuse to make such special levy, it shall be the duty of the auditor to place the same upon the duplicate for taxes as aforesaid.

SEC. 4. The money received for the sale of said bonds, shall be applied to the improvement of the streets of said village, and for no other purpose.

SEC. 5. This act shall take effect from and after its passage.

A. T. WALLING,
Speaker pro tem. of the House of Representatives.
WM. LAWRENCE,
President pro tem. of the Senate.

Passed February 17, 1869.

AN ACT

To form a new Township in Monroe county, Ohio.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That there is hereby created a new township in the county of Monroe, state of Ohio, to be known as Lee township. Said township shall be composed of the following sections and parts of sections, to be taken from the townships of Green, Jackson and Ohio, as they are now constituted, to-wit: Township 1, of range 3; south half of section No. 23; all of sections 21, 26, 27, 28, 32, 33 34; township No. 2, range No. 4, sections 2, 3, 4, south half of section 5, all of section No. 7 lying northeast of Barnes' Run, all of sections 8, 9, 10, 11, 16, 17, 18, 23 and 24; township No. 3, range No. 4, south half of section No. 19, and together said sections and parts of sections shall constitute and form said township of Lee; and the said sections and parts of sections are hereby detached from said townships of Green, Jackson and Ohio, and transferred to said township of Lee, and said township of Lee is hereby constituted with all the rights, privileges and immunities of a township within the state of Ohio.

SEC. 2. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,

Speaker of the House of Representatives.

T. J. GODFREY,

President pro tem. of the Senate.

Passed February 10, 1869.

 AN ACT

To authorize the commissioners of Montgomery county to erect a building to contain court rooms, county offices, and for other purposes.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the commissioners of Montgomery county be and they are hereby empowered to erect a building of such dimensions as they may deem best for the interests of the county, upon the lot next north of the court house in the city of Dayton, to contain court rooms, library rooms, business rooms, halls and offices, at a cost not to exceed one hundred thousand dollars.

SEC. 2. The commissioners of said county shall have power to rent, and execute leases for a term of not more than five years, of the business rooms, halls, and such offices as shall not be necessary for county purposes, but shall reserve the right to the use of one of said halls at all times for any public meeting, in their judgment of general interest to the citizens of Dayton or county of Montgomery, for which no charge shall be made except such an amount as may be required to pay the expense of opening, cleaning and lighting the same.

SEC. 3. The revenues arising from the leases and rents of said building after deducting the necessary expenses of superintendence and repair, shall be paid into the county treasury, and so much thereof as may be necessary shall be applied to the payment of the interest upon the bonds hereinafter mentioned.

SEC. 4. To raise money necessary for the purpose of erecting said building, the commissioners are hereby authorized and empowered to issue the bonds of said county to any amount not exceeding said sum of one hundred thousand dollars in the aggregate, payable at the pleasure of said commissioners at a period not exceeding ten years from the date thereof, and in such amounts and at such times as said commissioners shall determine, and bearing interest at a rate not exceeding eight per cent. per annum, payable annually.

SEC. 5. That for the purpose of paying said bonds when the same shall become due, and interest thereon in case the rents arising from the lease of the business rooms, halls and offices, not needed for county purposes are insufficient for that purpose, the said commissioners are hereby authorized and empowered to levy on the taxable property of such county such amount annually as will be sufficient to pay the principal of the bonds that shall fall due each year, respectively, and also the interest falling due annually on all bonds so issued.

SEC. 6. This act shall take effect from and after its passage.

F. W. THORNHILL,

Speaker of the House of Representatives.

T. J. GODFREY,

President pro tem. of the Senate.

Passed February 25, 1869.

AN ACT

To authorize the commissioners of Ross county to build a bridge over the Scioto river, at or near a point in said county known as Silvey's Ford, immediately east of the city of Chillicothe.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the commissioners of Ross county be and they are hereby authorized and empowered to build a bridge over the Scioto river, at or near a point in said county known as Silvey's Ford, immediately east of the city of Chillicothe, and to expend in the construction of said bridge any amount of money not exceeding thirty-five thousand dollars.

SEC. 2. That to defray the expenses of the construction of said bridge, the commissioners of said county are hereby authorized to levy, for the year 1869, in addition to the levy now authorized by law for bridge purposes, a tax not exceeding thirty-five thousand dollars; said tax to be collected as all other taxes are by law authorized to be collected.

SEC. 3. That in anticipation of said tax, said commissioners may, in their discretion, issue the bonds of said county in such sums as they may deem proper, not to exceed the amount of thirty-five thousand dollars, at an interest not exceeding six per cent., made payable in one year from

date, and dispose of the same at not less than their par value, and appropriate the proceeds to the construction of said bridge, said bonds and the interest thereon to be paid from the proceeds of the tax thus anticipated.

SEC. 4. This act shall take effect from and after its passage.

F. W. THORNHILL,

Speaker of the House of Representatives.

T. J. GODFREY,

President pro tem. of the Senate.

Passed February 25, 1869.

AN ACT

To authorize the commissioners of Lorain county to issue bonds to raise money to build a bridge across Black River, in the township of Black River, in said county, and to levy a tax to pay the same.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the commissioners of Lorain county be and are hereby authorized to raise by tax, in one or more annual levies, as they may determine, a sum not exceeding thirty thousand dollars, for the purpose of building a bridge across Black river, in the township of Black river, in said county, at the crossing of the lake shore road or highway in said township.

SEC. 2. That for the purpose of anticipating the money so to be raised, the said commissioners are hereby authorized to issue bonds of said county for such sum or sums as they may determine to be necessary for said purpose, not exceeding thirty thousand dollars, payable in one or more years, as said commissioners shall designate, bearing such rate of interest as may be allowed by law at the time of such issue.

SEC. 3. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,

Speaker of the House of Representatives.

T. J. GODFREY,

President pro tem. of the Senate.

Passed February 25, 1869.

AN ACT

To authorize the sale of certain school lands in the village of Jefferson, Ashtabula county, Ohio.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the mayor and town council of the village of Jefferson, in the county of Ashtabula, and state of Ohio, are hereby authorized to file their petition in the probate court of said county, praying for the sale of lots numbered thirty-seven and seventy-seven, on Ashtabula street; lots number seventeen, fifty-eight and ninety-seven, on Jefferson street; and lots num-

bered thirty-eight and seventy-eight on Erie street, in said village, being the same lands granted to said Jefferson by Gideon Granger, for the use and support of schools of learning therein, alleging that the sale thereof will be for the benefit of all interested in said lands; and if said court, on the bearing of such petition, shall be satisfied of the truth of said allegation, said lands shall be ordered by said court to be sold; that there shall be filed with said petition, the written consent of the board of education of said village that said sale may be made.

SEC. 2. If said court shall be satisfied that the statements made in said petition are true, the court shall grant the prayer of said petition, and shall issue an order, directed to the mayor of said village of Jefferson, directing him to cause said several lots of lands to be separately appraised by three disinterested freeholders of said county of Ashtabula, to be named by said court in said order; said appraisers to be duly sworn by some officer authorized to administer oaths, and further directing said mayor to sell said lands to the highest bidder, at not less than the appraised value thereof, one-fourth to be paid in hand, and the balance in three equal annual payments, with annual interest from the day said lands may be sold, after having advertised said sale for three consecutive weeks next preceeding the day of sale in a weekly newspaper published in said village.

SEC. 3. That at the time fixed for said sale, said mayor shall sell the same at public vendue, at the door of the town hall in said Jefferson, to the highest bidder bidding not less than the appraised value thereof, and shall immediately make report of such sale to said court, and file a copy of said report with the auditor of said county; and if upon examination of said sale and proceedings, said court shall find the same correct, said court shall confirm such sale, and make an order that said mayor make and deliver to the purchaser a deed of such lands upon the payment [of] the purchase money in full; and in case any of said lands shall remain unsold after being twice offered, said court may order new appraisals and issue other orders of sale.

SEC. 4. That the purchaser at any such sale shall forthwith pay to the treasurer of said county, one-fourth of such purchase money, and take his receipt therefor in duplicate, and shall annually thereafter, pay one-third of the balance of said purchase money with the accrued interest on the payments not due to said county treasurer, and take his receipts in duplicate.

SEC. 5. Any person wishing to pay any money under the provisions of this act in part or full payment of any such lands, whether such money may be due or not, shall first obtain the certificate of the auditor of said county, of the amount due, or to be paid with the interest which has then accrued thereon; and on presentation of the same the treasurer is authorized and required to receive the amount therein specified, and shall give the person paying the same duplicate receipts therefor, and the auditor, on the presentation of said receipts, shall retain one of them and return the other to the person so paying the same, and shall credit such person with the amount so paid, and shall charge the treasurer of said county therewith.

SEC. 6. The county auditor shall keep an account with the county treasurer of said county of Ashtabula, of all sales made and moneys paid thereon, by such purchaser, and shall make report of the same to the auditor of state on the first day of February, May, August and November, in each and every year until the whole amount is paid, which report shall distinguish between the amount paid as principal and the amount paid as

interest, and from the time of such report the state shall be liable to pay interest on all such sums of principal so reported as aforesaid as paid, to and for the use and support of schools in said village of Jefferson, and the treasurer of state on receiving a certified copy of the auditor of state, shall be authorized immediately to draw said money paid in as principal from said county treasurer; and the amount so reported as interest shall be retained in the county treasury and paid out to said village of Jefferson in the same manner as other school funds belonging to said village, and the principal arising from such sales shall, from the time the same is so reported to said auditor of state, form and constitute a part of the irreducible fund of the state, and shall be regulated and controlled, and the interest arising thereon be paid in all respects according to the act entitled "an act to establish a fund for the support of common schools," passed March 2, 1831.

SEC. 7. If any purchaser under any such sale, if alive, shall fail to make any payment so by him agreed to be paid, for the period of one year after the same shall become due, his bids and all payments by him made shall become forfeited; and said court shall issue another order of sale to said mayor, who is hereby authorized and required to sell said land again in the same manner provided in the third section of this act, at a price not less than the amount of principal and interest due, and to become due upon the original bid therefor, together with the cost of such re-sale; and the purchaser at such re-sale shall pay to the county treasurer the amount of principal and interest due upon the original bid therefor, and the costs of such sale in the same manner hereinbefore provided, and the balance if any shall be paid to the original purchaser or his legal representatives, and said sale shall be confirmed and deed ordered in the same manner hereinbefore provided in case of first purchasers.

SEC. 8. That the cost of such petition and sale shall be paid out of the county treasury of said county of Ashtabula, on the order of the county auditor, from the first moneys received by said treasurer as interest on such sales.

SEC. 9. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed March 1, 1869.

AN ACT

To authorize the trustees of Paxton township, Ross county, to issue bonds to straighten and improve the roads therein.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the trustees of Paxton township, in Ross county, be and they are hereby authorized to appropriate and contribute a sum, not exceeding

twenty thousand dollars, for the purpose of improving, by straightening, grading, graveling or macadamizing the state and county roads lying within the territorial limits of said township.

SEC. 2. That for the purpose of raising the money necessary to meet the said appropriation, the said trustees are hereby authorized to issue the bonds of said township, payable at such times as they may deem advisable, with interest, not exceeding six per cent. per annum, payable semi-annually, and which shall not be sold for less than their par value.

SEC. 3. That for the purpose of paying said bonds and interest thereon, as the same shall become due, the said trustees are hereby authorized to levy a tax upon the taxable property, real and personal, in said township, sufficient for that purpose, and the money so raised shall be used for no other purpose; provided, that one-third of said amount shall be raised in 1869, and one-third in 1870, and one-third in 1871.

SEC. 4. This act shall take effect from and after its passage.

F. W. THORNHILL,

Speaker of the House of Representatives.

J. C. LEE,

President of the Senate.

Passed March 1, 1869.

AN ACT

Authorizing the Commissioners of Crawford county to levy a tax to purchase Fair Grounds for the Agricultural Society of said county.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the commissioners of Crawford county be, and they are hereby authorized to levy, on the grand duplicate of said county, at their June session for the years 1869 and 1870, a sum sufficient, not exceeding one-half mill, for each of said years on the dollar, of the taxable property in said county, for the purchase and improvement of fair grounds for the agricultural society of said county.

SEC. 2. It shall be the duty of the board of directors of said agricultural society, to certify to the county auditor, on or before the first Monday in June, in each of the above years, the amount necessary to be expended during the current year, for such purchase and improvement, not exceeding the amount authorized to be levied by the first section of this act, which amount, so certified, shall, by said auditor, be placed on the grand duplicate of said county, and collected by the treasurer of said county, in the same manner as state and county taxes are collected.

SEC. 3. When the collection is made by the treasurer, as aforesaid, in each year, at his semi-annual settlement for the taxes of said years, the auditor of said county shall issue his order for the sum so collected, to the treasurer of said agricultural society, on his filing with such auditor an undertaking in double the amount so collected, with good and sufficient sureties, to be approved by the auditor, conditioned for the faithful paying over and accounting for all funds that may come into his hands by virtue of the provisions of this act.

SEC. 4. All grounds and improvements purchased and made as aforesaid, shall be under the exclusive control and management of the board of directors of said agricultural society; and should said society be dissolved or cease to exist, all of said grounds and improvements shall vest in fee in said county of Crawford.

SEC. 5. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
 J. C. LEE,
President of the Senate.

Passed March 1, 1869.

AN ACT

Supplementary to an act entitled "An act to authorize the location and construction, by the County Commissioners of Scioto county, of Free Turnpike and Plankroads," passed April 5, 1866. (Ohio Laws, vol. 63, page 207.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the county commissioners of Scioto county, when they become satisfied that the producing and consuming interests of their county demand and justify special action for the improvement of the roads of such county, are hereby authorized and empowered to appoint three disinterested freeholders of their county as commissioners to view, survey and locate within their said county, one or more branch roads, beginning at and leading from any main trunk road heretofore or that hereafter may be established and constructed under the provisions of the above recited act, and running by such direct and eligible route as they may find to be best for the public convenience, and terminating at any point within or at the county line.

SEC. 2. That in the establishment and construction of any such branch road, said county commissioners shall proceed to and be governed in all respects by the provisions of the above recited act, and shall have and exercise the same power as is given to them by said act in the establishment and construction of said main trunk roads; and for the purpose of aiding in the construction and to provide a permanent fund for the maintenance and expenses thereof, they are authorized to levy, annually, a tax as therein provided for.

SEC. 3. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
 J. C. LEE,
President of the Senate.

Passed March 1, 1869.

AN ACT

To authorize the Commissioners of Crawford county to make an additional levy, upon the taxable property of said county, to complete their County Infirmary.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That it shall be lawful for the county commissioners of the county of Crawford, in this state, to make a levy upon the taxable property of said county, in the year 1869, in any sum, not exceeding one mill and a half upon the dollar's valuation of said taxable property, for the purpose of completing their county infirmary, which said sum shall be levied and collected as other taxes.

SEC. 2. That to anticipate such part of the amount by section one of this act authorized to be levied and collected as they desire, the said commissioners be and they are hereby authorized to issue the bonds of the said county, in sums not exceeding five hundred dollars each, payable at such time, not later than January 1, 1871, as said commissioners shall prescribe, and bearing interest at a rate not exceeding eight per cent. per annum; provided, that the whole amount of the bonds shall not exceed the amount of the tax so authorized to be levied, and shall not be sold at less than their par value.

SEC. 3. This act shall take effect on its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed February 24, 1869.

AN ACT

To authorize the Trustees of Chester township, Meigs county, to levy a tax to pay the indebtedness of said township.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the trustees of Chester township, in the county of Meigs, in addition to their other powers of taxation, be and are hereby authorized to assess and collect on the grand levy of the taxable property of said township, for the year 1869, a tax not exceeding one mill on the dollar, to be applied in liquidating the present indebtedness of said township.

SEC. 2. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed March 3, 1869.

AN ACT

To authorize the Board of Elders of the Northern Diocese of the Church of the United Brethren (Moravian Society) of Canal Dover, in Tuscarawas county, in the State of Ohio, to sell or dispose of their cemetery grounds.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the board of elders of the northern diocese of the church of the United Brethren in the county of Tuscarawas, in the state of Ohio, is hereby authorized and empowered to sell and convey the cemetery grounds now owned by said religious society, situate in the county of Tuscarawas and state of Ohio.

SEC. 2. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed March 11, 1869.

AN ACT

To authorize the Trustees of Milton township, Jackson county, to levy a tax to pay the present indebtedness of said township.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the trustees of Milton township, in the county of Jackson, in addition to the other powers of taxation heretofore conferred by law, be and are hereby authorized to assess, on the grand levy of the taxable property of said township, for the year 1869, a tax, not exceeding three mills on the dollar, to be applied in liquidating the present indebtedness of said township.

SEC. 2. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
T. J. GODFREY,
President pro tem. of the Senate.

Passed March 15, 1869.

AN ACT

To authorize the conveyance of a certain lot heretofore dedicated for Cemetery purposes to be conveyed to the Board of Education of Lima School, to be used for school and school house purposes, and to repeal an act therein named.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the county commissioners of Allen county, Ohio, and the trustees of the cemetery association of Lima, in said county, be and they are hereby

authorized to release and quit-claim all right and title which they or either of them may have or hold as trustees or otherwise, in outlot number one (1) of the village of Lima, Allen county, Ohio, on the original plat of said town (heretofore dedicated and reserved under the authority of the general assembly of the state of Ohio for cemetery purposes), to the board of education of Lima union school, Ottawa township, Allen county, Ohio, and to their successors in office, for school and school house purposes, for the use of said school district.

SEC. 2. Said conveyance shall vest in said board of education, and their successors in office, the absolute right to hold, manage, use and control said premises for all purposes not inconsistent with this act.

SEC. 3. That an act entitled "an act to authorize the conveyance of a certain lot heretofore dedicated for cemetery purposes to the incorporated village of Lima, Allen county, Ohio, to be used as a park;" passed and took effect March 31, 1864, be and the same is hereby repealed.

SEC. 4. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
T. J. GODFREY,
President pro tem. of the Senate.

Passed March 15, 1869.

AN ACT

To create a joint sub-school district in parts of Dinsmore and Franklin townships, in Shelby county.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the territory hereinafter described be, and the same is hereby created and declared to constitute a joint sub-school district in the county of Shelby, to wit: Beginning on the line between Dinsmore and Franklin townships, in said county, at a point one-half mile west of where said line crosses the Sidney and Wapakoneta turnpike, and running south one-half mile; thence east one mile and three-fourths; thence north one mile and one-fourth; thence west one mile and three-fourths; thence south three-fourths of a mile, to the place of beginning.

SEC. 2. The joint said sub district shall be organized and controlled in accordance with the provisions of section sixteen of the act passed March 14, 1853, as amended by the act passed March 28, 1865.

SEC. 3. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
T. J. GODFREY,
President pro tem. of the Senate.

Passed March 15, 1869.

AN ACT

Authorizing the Commissioners of Washington county to levy a tax to pay for grounds purchased and improvements made for the Washington County Agricultural and Mechanical Association.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the commissioners of Washington county be and are hereby authorized to levy on the grand duplicate of said county, at their June session for the year 1869, a tax not exceeding one-half mill on the dollar of the taxable property of said county; and at their June session for the year 1870, an additional tax not exceeding one-fourth mill on the taxable property of said county, to pay for grounds heretofore purchased and for improvements heretofore made by the Washington county Agricultural and Mechanical Association; provided, that the whole amount so levied shall not exceed the sum of six thousand five hundred dollars.

SEC. 2. That the tax which shall be levied under the first section of this act shall, by the auditor of said county, be placed on the grand duplicate of said county, and collected by the treasurer of said county in the same manner as state and county taxes are collected.

SEC. 3. That when the collection shall have been made by the treasurer as aforesaid, in each year, at his semi-annual settlement for the taxes of said years, the auditor of said county shall issue his order for the sum so collected to the treasurer of said Washington county Agricultural and Mechanical Association, on his filing with such auditor an undertaking in double the amount so collected, with good and sufficient surety, to be approved by the auditor, conditioned for the faithful paying over and accounting for all funds that may come into his hands by virtue of the provisions of this act.

SEC. 4. That all grounds and improvements purchased and made as aforesaid, and all grounds owned by said association, shall be under the exclusive control and management of the board of directors of said association; and should said association be dissolved or cease to exist, all of said grounds and improvements so owned by such association shall vest in fee in said county of Washington.

SEC. 5. This act shall take effect from and after its passage.

F. W. THORNHILL,

Speaker of the House of Representatives.

T. J. GODFREY,

President pro tem. of the Senate.

Passed March 15, 1869.

AN ACT

To authorize the incorporated village of Logan, in Hocking county, to purchase certain real estate.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the council of the incorporated village of Logan, in Hocking county, Ohio, be and they are hereby authorized and empowered to purchase, in

fee simple, of Lawrence A. Culver and other owners, a tract of land supposed to contain about seven acres, situated at the east end of Main street, in said village, and in the forks of the roads commonly called the Zanesville and Logan and the Athens and Logan state roads, and west of Crook and Bragg's addition to said village of Logan, at a price not exceeding eight thousand dollars, on such terms of payment as said council and said owners of said land can agree.

SEC. 2. That said council are hereby authorized and empowered to issue the bonds of said village to secure the payment of said purchase money, payable one-fourth in one year, one-fourth in two years, one-fourth in three years, and the residue in four years; said bonds to bear interest at the rate of six per cent. per annum, payable annually.

SEC. 3. Said council are further authorized and empowered, after said purchase, to lay off said lands into lots of such size and dimensions as to said council shall seem right and proper, add the same to said village plat, and number the same according to law; and in so laying off said lots to make such streets and alleys and other public ground as shall to said council seem right and proper; and to sell any and all of said lots, with their appurtenances, in fee simple or otherwise, to such purchasers, and on such terms of payment as shall seem right and proper to said council.

SEC. 4. In case of purchase as aforesaid, the deed shall be made to the council of the incorporated village of Logan, aforesaid, and their successors in office, and in case of sale of any of the lots or parts of lots, as aforesaid, by said council, the same shall be conveyed in fee simple, or other title, by the mayor and recorder of said village.

SEC. 5. Said council are hereby authorized and empowered, with the assent of the board of county commissioners of said county, to vacate so much of the Zanesville and Logan state road, as runs angling through the plat of said village from the north side of Hunter street to Main street; and also to vacate so much of the Athens and Logan state road as runs angling through the plat of said village from Front street to Main street; provided, however, that before said vacations shall be made, as aforesaid, a street shall be opened and put in good traveling condition by said council, from the point where the Zanesville and Logan road intersects Hunter street, to a point on Front street, so as to make said new street at right angles with Hunter street.

SEC. 6. All private rights to be affected by any alterations to be made in the streets and vacations of roads as aforesaid, are reserved from the effects of this act, and left to be adjusted under the general laws of the state.

SEC. 7. Said council are authorized to embrace in said purchase from said L. A. Culver and other owners, all the land now covered by the road-beds of both said Zanesville and Athens state roads, embraced within the limits of the aforesaid vacations, and also a corner on the north-west side of said Zanesville road, near the lots of Frederick G. Frash and Josiah J. Bragg.

SEC. 8. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed April 3rd, 1869.

AN ACT

To authorize the Commissioners of Coshocton county to build a bridge or bridges across the Tuscarawas river, at or near the village of West Lafayette, or at or near the village of Orange, or both, in said county.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the commissioners of Coshocton county be and they are hereby authorized and empowered to levy a tax on all the taxable property of said county to an amount sufficient to build a bridge across the Tuscarawas river at or near the town of Orange, or at or near the town of West Lafayette, or both, as said commissioners shall deem just and expedient, and for the best interests of the people thereof; provided, that before the said commissioners shall levy said tax, they shall first determine at which of the above named points said bridge shall be located, or whether at both points. If the said commissioners shall determine that the said bridge shall be located at or near the town of Orange, then the trustees of the township of Oxford, in the said county of Coshocton, shall raise by voluntary subscription, or by a tax levied on the taxable property of said township, or both, such an amount of money as may be agreed upon by the commissioners and trustees as aforesaid. If the commissioners shall determine that the said bridge shall be located at or near the town of West Lafayette, then the trustees of the township of Lafayette shall proceed in the same manner as is above directed in case such bridge is located at said town of Orange, to raise the sum of money that may be agreed upon between them and said commissioners; and if the commissioners shall determine that a bridge shall be constructed at both of said towns, then they shall proceed jointly with the above named townships as aforesaid; and such money so raised shall be applied in aid of the construction of said bridge or bridges.

SEC. 2. The trustees of said township or townships of Oxford and Lafayette, or both, are hereby authorized and required to certify to the auditor of said county of Coshocton the amount to be levied on the taxable property of said township or townships of Oxford and Lafayette, or both, so agreed upon, which shall be levied and collected, as other taxes are levied and collected, and applied by the commissioners in the erection of said bridge or bridges, as the commissioners as aforesaid shall determine, and for no other purpose.

SEC. 3. This act shall take effect on and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. O. LEE,
President of the Senate.

Passed April 3, 1869.

AN ACT

To amend section twelve of an act entitled "An act to provide for the support and regulation of Public Schools in the city of Cleveland," passed April 14, 1868. (O. L., vol. 65, p. 236.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section twelve of the above recited act be so amended as to read as follows :

Section 12. It shall be the duty of said board to establish and alter the boundaries of school districts in said city, as the public convenience may require, and it shall provide and support in said district, such number and classes of schools as may be necessary to furnish thorough and appropriate instruction, in all the branches of a good common school education, to all the children residing therein between the ages of six and twenty-one years; and for the purpose of affording a more advanced education, two high schools shall be established and maintained at the expense of the city, in which high school instruction may be given in such languages and higher branches of learning as the board may direct; and the said board may also employ, at the expense of said city, teachers who shall give instruction in the German language in such classes or schools of lower grade than said high schools, as they, the said board, may deem for the best interest of the public.

SEC. 2. That section twelve of the above recited act be and the same is hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed March 17, 1869.

AN ACT

Authorizing the Commissioners of Hancock county, Ohio, to levy a tax for the payment of the balance of the purchase money of the Fair Grounds of the Agricultural Society of said county, and for improving the same.

SECTION 1. *Re it enacted by the General Assembly of the State of Ohio.* That the commissioners of Hancock county be, and they are hereby authorized to levy on the grand duplicate of said county, at their June session for the years 1869, 1870 and 1871, a sum sufficient, not exceeding one-fourth mill for each of said years on the dollar of the taxable property of said county, for the payment of the balance of the purchase money and improvement of the fair grounds of said Hancock county agricultural society.

SEC. 2. It shall be the duty of the board of directors of said agricultural society to certify to the county auditor, on or before the first Monday in June in each of the above years, the amount necessary to be expended during the current year for such purchase money and improvements, not exceeding the amount authorized to be levied by the first section of this act, which amount so certified shall, by said auditor, upon the order of the commissioners, be placed on the grand duplicate of said county, and collected by the treasurer of said county, in the same manner as state and county taxes are collected.

SEC. 3. When the collection is made by the treasurer as aforesaid, in each year, at his semi-annual settlements for taxes of said years, the auditor of said county shall issue his order for the sum so collected, to the treasurer of said agricultural society, on his filing with such auditor.

an undertaking in double the amount so collected, with good and sufficient surety, to be approved by the auditor, conditioned for the faithful paying over and accounting for all funds that may come into his hands by virtue of the provisions of this act.

SEC. 4. All grounds and improvements purchased and made as aforesaid, and all grounds owned by said agricultural society as sites whereon to hold their fairs, shall be under the exclusive control and management of the boards of directors of said agricultural society; and should said society be dissolved or cease to exist, all of said grounds and improvements so owned by such society, shall vest in fee simple in said county of Hancock.

SEC. 5. This act shall take effect and be in force from and after its passage.

A. T. WALLING,
Speaker pro tem. of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed April 3, 1869.

AN ACT

To authorize the commissioners of Henry county to build a bridge over the Maumee river at the village of Florida, in said county.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the county commissioners of the county of Henry are hereby authorized to levy a tax upon all the taxable property of said county, for the purpose of constructing a bridge across the Maumee river at the village of Florida, in said county; said tax so authorized to be levied shall not in any one year exceed three mills on the dollar valuation of said property, and shall be levied each successive year, commencing in 1869, until a sufficient amount is raised for said purpose.

SEC. 2. That said tax shall be collected in the same manner as other taxes are collected, and when collected shall be applied exclusively to the purpose for which it was levied.

SEC. 3. This act shall be in force from and after its passage.

A. T. WALLING,
Speaker pro tem. of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed April 3, 1869.

AN ACT

For the relief of Robert Stewart, late treasurer of Fayette county, Ohio.

WHEREAS, About the year 1858, Robert Stewart, the then treasurer of Fayette county, sustained losses as such treasurer by means of duplicate or false keys of about \$4,500 without in any way implicating said Stewart either for carelessness or dishonesty; and

WHEREAS, On the night of the 8th of February A. D. 1864, the safe provided by the county commissioners of said county, for the use of the treasury of said county, and the same safe and lock used by said county during the incumbency of the said Stewart, and then in the custody of the then treasurer of said county, was burglariously opened by means of a false key and robbed, and the said false key became fastened in the lock of said safe and was thus left by the burglar, and said safe left open; therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the county commissioners of the county of Fayette, may, in their discretion, refund and pay the said Robert Stewart, late treasurer of said county, the said sum of \$4,500, with interest thereon, the amount of the said losses by him sustained as such treasurer; and the county commissioners are hereby authorized, if in their opinion it is necessary, to levy a tax, not exceeding the sum necessary to reimburse and refund to the said Robert Stewart, late treasurer as aforesaid, the loss so by him as aforesaid sustained.

SEC. 2. This act shall take effect and be in force from and after its passage.

A. T. WALLING,
Speaker pro tem. of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed April 3, 1869.

AN ACT

To authorize the Union School Board of the incorporated village of St. Paris, Champaign county, Ohio, to levy a tax for purposes therein named.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the Union School Board of the incorporated village of St. Paris, Champaign county, Ohio, be and they are hereby authorized and empowered to levy a tax on all the taxable property of said village, not to exceed fifteen hundred dollars, for the purpose of fencing and improving the school house grounds of said village.

SEC. 2. This act shall take effect and be in force on and after its passage.

A. T. WALLING,
Speaker pro tem. of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed April 3, 1869.

AN ACT

To authorize the Trustees of Harrison township, Champaign county, Ohio, to levy a Special Tax.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the trustees of Harrison township, Champaign county, Ohio, be and they are hereby authorized to levy on the taxable property of said town-

ship for the years 1869 or 1870, at such rate of taxation as may be necessary to raise a sum sufficient to pay the judgment and costs in the case of Cook against Craig & Wilson, rendered at September term, 1868, of Champaign county common pleas, and the expenses of the defendants therein, to pay for sundry recruits credited to said township, as its quota under the draft of 1864; provided, that at any regular election the qualified voters of said township shall approve of said levy by casting a majority of votes in favor of the same.

SEC. 2. That said trustees shall pay said money to parties entitled to the same, upon satisfactory proof that they are entitled to the same by reason of their having paid such money to or for the benefit of such recruits.

SEC. 3. This act shall take effect from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed March 24, 1869.

AN ACT

To authorize the Commissioners of Stark county to levy an additional Tax for Bridge purposes.

WHEREAS, It appears by representation made by the county commissioners of Stark county, that a larger bridge fund is necessary for the purpose of building and repairing bridges in said county; therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the commissioners of Stark county be and they are hereby authorized to levy for the year 1869, a tax for bridge purposes not to exceed two mills on the dollar on the taxable property of said county, in addition to the levy now authorized by law.

SEC. 2. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed April 2, 1869.

AN ACT

To authorize the Commissioners of Mahoning county to levy a tax to build a bridge over the Mahoning River at or near Lowellville, in said county.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the commissioners of Mahoning county, in said state, be and they are hereby authorized and empowered to expend from any funds now accumulated or to accrue from any levy now made in said county for bridge purposes, a sum not to exceed twenty thousand dollars, or should

they deem the same to be necessary, to levy a tax in addition to the tax now authorized by law for bridge purposes, not to exceed ten thousand dollars, for the purpose of building a bridge across the Mahoning river at or near the village of Lowellville, in said county; which said tax shall be levied and collected as are other taxes within the two years next following the passage of this act, in one or two installments, as said commissioners may determine.

SEC. 2. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed March 23, 1869.

AN ACT

To authorize the trustees of the township of Geneva, Ashtabula county, to borrow money to pay the indebtedness incurred in building a Town Hall, and levy a tax for said purpose.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the trustees of the township of Geneva, Ashtabula county, are hereby authorized to borrow a sum of money, not exceeding ten thousand dollars, and for such time or times, not exceeding four years, as said trustees may deem best, for the purpose of paying off the indebtedness incurred in building a town hall within and for said township.

SEC. 2. For the purpose aforesaid, the trustees are hereby authorized to issue bonds of said township, in such sums respectively as they may deem best, to bear interest not exceeding eight per cent. per annum.

SEC. 3. For the purpose of paying said bonds, with interest, as the same becomes due, a tax of sufficient amount upon all the property subject to taxation in said township, shall be levied and collected each year, in the same manner as prescribed in an act to authorize the erection, improving, enlarging and constructing additions to town halls, passed April 2, 1866, (Ohio Laws, volume 63, page 84.)

SEC. 4. This act shall be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed April 7, 1869.

AN ACT

To provide for the erection of a Town Hall and place for holding elections in the town of Vermillion, Erie county, Ohio.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the trustees of the township of Vermillion, in Erie county, are hereby authorized to erect a town hall in the village of Vermillion, to be used as a hall for said village, and for holding elections and meeting of the township and school officers of the township therein, by the township, at a cost

not exceeding the sum of eight thousand (\$8,000) dollars; and to provide the necessary funds for said building, said trustees may loan the amount of money necessary, and to secure the payment of such loan, may issue the bonds of said township for such sums, not less than fifty dollars each, as they may deem advisable, payable at such times as they may determine upon, not exceeding in any case the term of five years from date, said bonds in no case to be sold for less than their par value, and bear interest not exceeding eight per cent., payable annually; the bonds to be signed by at least two of the trustees, and countersigned by the clerk of said township, who shall keep and preserve a record of the same, which record shall show the amount, date, time payable, rate of interest, and person to whom payable, of each and every bond so made and sold; provided, that prior to any action being taken under the authority of this act, the legal voters of said township and village shall have sanctioned the same by a majority vote, at some regular election held in said township.

SEC. 2. The trustees of said township shall levy a tax on all the taxable property of said township, including said village, sufficient to pay, and for the purpose of paying the amount of said bonds and interest, the same to be levied annually from and after the issuing of said bonds, sufficient to pay, each year, the amount to fall due that year or before the tax for the ensuing year can be levied and collected, until the entire amount of bonds and interest shall be paid; the tax to be levied and collected as other taxes are levied and collected; and the money, when so collected, shall be paid on said bonds, as the interest or principal or both fall due.

SEC. 3. This act shall take effect from and after its passage.

J. R. COCKERILL,

Speaker pro tem. of the House of Representatives.

J. C. LEE,

President of the Senate.

Passed April 12, 1869.

AN ACT

To authorize the improvement of the State Road leading from Portsmouth to Hillsborough, within the county of Adams.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the commissioners of Adams county, Ohio, whenever in their judgment the public interest requires, are hereby authorized to improve that part of the state road leading from Portsmouth to Hillsborough, situate in Adams county, Ohio, by straightening, altering, grading, paving, graveling or macadamizing said road as hereinafter provided.

SEC. 2. That for the purpose of improving said road as aforesaid, all the lands and lots in said county lying within five miles of said road, and benefited by said improvement, may be assessed therefor; and said improvement made, subject to all the provisions of an act entitled an act to authorize county commissioners to construct roads on petition of a majority of resident land owners along and adjacent to the line of said road, and to repeal an act therein named, passed March 29, 1867, and an act amendatory thereto, passed March 31, 1868, and an act supplementary thereto, passed May 9, 1868, and an act supplementary thereto, passed

May 13, 1868, so far as said acts are applicable thereto; provided, that said commissioners shall not make any final order authorizing said improvement until a majority of the land and lot owners resident within said county, and whose lands and lots have first been assessed to make said improvement, shall have signed a petition directed to the county commissioners, praying for said improvement.

SEC. 3. This act shall be in force from and after its passage.

J. R. COCKERILL,

Speaker pro tem. of the House of Representatives.

J. C. LEE,

President of the Senate.

Passed April 12, 1869.

NA ACT

To authorize the construction of a branch road to the Hamilton and Gregory's Creek Turnpike Road Company.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the Hamilton and Gregory's Creek Turnpike Road Company be and are hereby authorized to construct a branch to their said road, commencing at a point on the road of said company where said road bears north from the section line between sections 20 and 21, in Fairfield township, in Butler county, Ohio; thence east on section line between said sections 20 and 21, and on the line dividing sections 14 and 15, to the northeast corner of said section 14. And in constructing said branch the company shall have all rights and privileges of toll roads and be subject to all the liabilities and restrictions now imposed by law.

SEC. 2. This act to take effect and be in force from and after its passage.

A. T. WALLING,

Speaker pro tem. of the House of Representatives.

J. C. LEE,

President of the Senate.

Passed April 13, 1869.

AN ACT

Supplementary to an act entitled "an act to authorize the commissioners of Pickaway county, Ohio, to levy a tax to assist in building a bridge across Darby creek, at or near Darbyville, in said county." (65 O. L., 243.)

WHEREAS, The legislature of the state of Ohio did, by an act passed and took effect April 11, 1868, authorize the county commissioners of Pickaway county to levy a tax to assist in the building a bridge across Darby creek, at or near Darbyville, in said county; and

WHEREAS, The commissioners of said county, in pursuance of the authority thus granted, did proceed to levy the tax and make contracts for the construction of said bridge; and

WHEREAS, Before the work on the same was commenced, the court of common pleas of Franklin county, by the decision of its judges, determined that the law of May 9, 1868, was a restriction upon the power of county commissioners to levy the tax and make contracts under laws of the character above described; therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the county commissioners of Pickaway county be and they are hereby authorized and directed to proceed to make contracts for the construction of a bridge across Darby creek, at or near Darbyville, in said county, and for the purpose of defraying the cost of such construction, are hereby authorized to levy a tax sufficient for that purpose upon all the taxable property within the limits of said county,

SEC. 2. This act shall take effect and be in force from and after its passage.

A. T. WALLING,
Speaker pro tem. of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed April 13, 1869.

AN ACT

To authorize the board of education of Milford School District No. 1, Miami township, Clermont county, Ohio, to borrow money and issue bonds to build a school house in said district.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the board of education of Milford school district, number one, Miami township, Clermont county, Ohio, be and they are hereby authorized to borrow ten thousand dollars for the purpose of erecting a school house in said district.

SEC. 2. That for the purpose aforesaid, the said board of education are hereby authorized and empowered to issue bonds, to be signed by the president and attested by the secretary of said board, in sums of not less than fifty nor more than five hundred dollars, bearing interest at a rate not exceeding ten per cent. per annum; said bonds to be payable at any time within five years; provided, that said bonds shall not be sold for less than their par value.

SEC. 3. The said board of education are hereby empowered to levy a tax annually, on all the taxable property of said school district sufficient to pay said bonds, together with the interest thereon as they fall due; which levy shall be placed on the tax duplicate by the auditor of said county, and collected as other taxes.

SEC. 4. This act to be in force from and after its passage.

A. T. WALLING,
Speaker pro tem. of the House of Representatives.
T. J. GODFREY,
President pro tem. of the Senate.

Passed April 6th, 1869.

AN ACT

Further to prescribe the duties of the Commissioners of Hamilton county, in relation to building a bridge over Mill Creek.

WHEREAS, It is desirable that a permanent bridge shall be constructed across Mill Creek, in the county of Hamilton, at or near the western end of Gest street, in the city of Cincinnati; and

WHEREAS, On account of the great bend here made in the stream, by which it flows to the east of the straight line of its general course a distance of about one-fourth of a mile, it is inexpedient to construct a permanent bridge at the place of the present intersection of said stream with said Gest street; and

WHEREAS, From one point of this bend to another, in a direct line with the general course of the stream, and in a direct line with the Front street and Harrison turnpike bridges, is a distance of only about seven hundred feet; therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That to enable the commissioners of Hamilton county to obtain a suitable place for the construction of such bridge, it shall be lawful for said commissioners to make a cut between the points, and as nearly as practicable in the line above indicated, straightening said stream, and to cause to be constructed a bridge across said Mill Creek at the place of the intersection of the continuance of said Gest street with said cut.

SEC. 2. That it shall be lawful for said commissioners to appropriate the necessary property for the making of said cut, which necessary property shall be appropriated, and the owners thereof compensated, in accordance with the terms and provisions of "an act to provide for compensation to the owners of private property appropriated to the use of corporations," passed April 30th, 1852. (S. & C., 311.)

SEC. 3. That to provide for the payment of the cost of construction of such bridge and cut, and of the property appropriated therefor, said commissioners are hereby authorized, in addition to their other powers of taxation, to levy a tax therefor upon the real and personal property returned upon the grand levy of said county, not exceeding the one-fourth of one mill.

SEC. 4. Provided, that the said tax shall not be levied until Cincinnati and Baltimore Railroad Company make a contract for the building of the railroad fill on a line east of said cut and bridge.

SEC. 5. That this act shall take effect and be in force from and after its passage.

A. T. WALLING,
Speaker pro tem. of the House of Representatives,
T. J. GODFREY,
President pro tem. of the Senate.

Passed April 6th, 1869.

AN ACT

Supplementary to an act entitled "an act to authorize the Board of Education of Cedarville School District, in the county of Greene, embracing the incorporated village of Cedarville, and adjacent territory, to borrow money, purchase a site and build a School House," passed April 13, 1868. (O. L., vol. 68, page 248.)

SECTION. 1. *Be it enacted by the General Assembly of the State of Ohio,* That to enable the board of education of Cedarville, Greene county, to complete and furnish the school house, the building of which was authorized by the act to which this is supplementary, be and they are hereby authorized to issue their bonds, signed by the president and secretary of said board, in sums of not less than fifty nor more than five hundred dollars each, bearing interest at a rate not exceeding eight per cent. per annum, payable semi-annually, for an amount not exceeding in the aggregate the sum of five thousand dollars, and payable at any time not exceeding five years from the time of issuing the same, at the discretion of said board; provided, said bonds shall not be sold at less than their par value.

SEC. 2. That for the purpose of paying the said bonds and the interest thereon, as the same shall become due, the said board of education are hereby authorized and empowered to levy on the taxable property of the incorporated village of Cedarville, and the territory thereto annexed for school purposes, such an amount annually as will be sufficient to pay the principal of the debt that shall fall due each year especially, and also the interest falling due annually on all of the bonds so issued; and the money so raised shall not be used for any other purpose.

SEC. 3. This act shall take effect and be in force from and after its passage.

A. T. WALLING,

Speaker pro tem. of the House of Representatives.

T. J. GODFREY,

President pro tem. of the Senate.

Passed April 6th, 1869.

AN ACT

To authorize and require the Auditor of State to examine certain claims against the State of Ohio, and to issue his warrant on the State Treasurer for the amount, if found correct.

WHEREAS, In the year 1865, the assessor of Stanton township, Miami county, Ohio, assessed one hundred shares of one hundred dollars each, of the second national bank of Lafayette, Indiana, and in the year 1866 the assessor of said township assessed one hundred and eighty shares of one hundred dollars each in said bank, and on the above named amount of one hundred shares there was levied a tax of one hundred and forty dollars and fifty cents, which tax was paid in the year 1865, and on the above named amount of one hundred and eighty shares, there was levied a tax of two hundred and forty-six dollars and sixty cents, which tax was paid in the year 1866; Daniel Brown, resident of Stanton town-

ship, being the owner of said stock, has paid three hundred and eighty-seven dollars and ten cents, that being the amount of taxes assessed thereon, which sum was received by the treasurer of said county and by him duly placed to the credit in its respective proportions to the State and county; and

WHEREAS, Elizabeth B. Graves, of New Carlisle, Bethel township, Clarke county, Ohio, was assessed on ten shares of stock of one hundred dollars each in the second national bank of Lafayette, Indiana, by the assessor of said township, upon which twenty-two dollars and sixty cents was paid in the year 1865; and that in the year 1866, one hundred shares of stock of one hundred dollars each in the same bank was assessed and paid thereon, amounting to one hundred and thirty eight dollars and sixty cents; and that in the year 1867, on one hundred shares of one hundred dollars each, was assessed in the same bank, and one-half the amount of taxes due December, 1867, amounting to eighty-seven dollars was paid, being the amount of taxes thereon; which sum was received by the county treasurer and by him duly placed to the credit in its respective proportions to the State and county; and

WHEREAS, It is alleged that the sum of three hundred and eighty seven dollars and ten cents, taxes assessed upon Daniel Brown, and the sum of two hundred and forty eight dollars and twenty cents, taxes assessed upon Elizabeth B. Graves, upon said stock was illegal, and ought of right and justice to be paid to said Brown and Graves, which is refused to be done for alleged want of legal authority; therefore,

SECTION. 1. *Be it enacted by the General Assembly of the State of Ohio,* That the auditor of state be directed and required to examine into said alleged claims of said Brown and Graves, and if he shall find that the said Brown and Graves have paid illegal taxes on the stock, or otherwise, to draw his warrant on the state treasurer for the amount of such illegal taxes as may have been paid into said state treasury or gone to the credit of the State.

SEC. 2. That the auditors of Miami and Clarke counties be directed and required to ascertain what portion of said illegal taxes was paid into or went to the credit of their several county treasurers for any and all purposes whatsoever, and to draw their warrants therefor (with interest from the time of such payment or credit) upon the county treasurer of their respective counties, who is required to pay the same out of any surplus or unexpended funds in the county treasury.

SEC. 3. This act shall take effect from and after its passage.

J. R. COCKERILL,

Speaker pro tem. of the House of Representatives.

J. C. LEE,

President of the Senate.

Passed April 12, 1869.

AN ACT

To authorize the town council of the village of Columbia, in Hamilton county, to levy taxes for the purpose of improving the streets in said town, and to borrow money for that purpose.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the town council of the incorporated village of Columbia, in Hamil-

ton county, shall have full power to levy and collect taxes on all property, both personal and real, within the corporate limits of said village, not exceeding five mills on the dollar, for the purpose of improving the streets and sidewalks in said village.

SEC. 2. That the mayor of said incorporated village of Columbia, by and with the consent of the common council of said incorporated village, is hereby authorized to borrow money not to exceed one thousand dollars, at a rate of interest not to exceed eight per cent. per annum, for that purpose.

SEC. 3. This act to take effect from and after its passage.

A. T. WALLING,
Speaker pro tem. of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed April 12, 1869.

AN ACT

Supplementary to "an act to authorize the Trustees and Board of Education of Washington township, Franklin county, Ohio, to levy a tax to build a school house and town hall."

WHEREAS, In the act entitled "an act to authorize the trustees and board of education of Washington township, Franklin county, Ohio, to levy a tax to build a school house and town hall," passed May 14, 1868, an error occurred in the number of the school districts therein named; and

WHEREAS, The said act was enacted for the benefit of districts numbers two and nine, instead of districts numbers one and two aforesaid; and

WHEREAS, The trustees and board of education of said township did, in pursuance of said act, levy a tax for the purpose of building a school house for said districts numbers two and nine, and the same has been placed on the tax duplicate of said Franklin county, and the portion thereof due and payable in December, 1868, collected by the treasurer of said county; therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the treasurer of said county of Franklin be and is hereby authorized to pay to the proper officer of the said township, for the purpose of building a school house for the accommodation of districts numbers two and nine in said Washington township, all money collected in pursuance of said act, in December, 1868; and all sums which may hereafter be collected by him by virtue of the levy made under the provisions of said act.

SEC. 2. This act shall take effect and be in force from and after its passage.

A. T. WALLING,
Speaker pro tem. of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed April 14, 1869.

AN ACT

Supplementary to and amendatory of an act entitled "an act to authorize the Board of Education of the incorporated village of St. Clairsville to issue bonds to raise money to purchase site and build a School House in said village," passed March 29, 1867, and to amend section three of said act. [O. L., vol. 64, page 288.]

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the board of education of said village is hereby authorized and empowered to issue bonds in addition to the amount authorized by the act to which this is supplementary, not exceeding five thousand dollars, payable within ten years, at a rate of interest not exceeding eight per cent. per annum, payable semi-annually; provided, that said board may, and they are hereby authorized to issue other bonds, to substitute bonds which may have been issued by authority of the act to which this is supplementary, for short periods, which bonds so issued and substituted shall be considered no part of the aggregate amount of bonds authorized to be issued by this, and the act to which this is supplementary.

SEC. 2. That the bonds herein provided for shall be issued in the manner prescribed in the second section of the act to which this is supplementary.

SEC. 3. That said board of education is hereby authorized and empowered to levy upon the taxable property within said district, such sums as will enable said board to pay the principal and interest of the bonds authorized to be issued by this act and the act to which this is supplementary and amendatory, when the same shall become due and payable, and certify such levies to the county auditor of said county, who shall levy the same, to be collected as other taxes; provided, that such levies for the payment of the principal of said bonds shall be equal, and within ten years from the passage of this act.

SEC. 4. This act shall take effect and be in force from and after its passage, and said section three is hereby repealed.

A. T. WALLING,

Speaker pro tem. of the House of Representatives.

J. C. LEE,

President of the Senate.

Passed April 14, 1869.

 AN ACT

To authorize the board of education of the Osborne school district in the county of Greene, embracing the incorporated village of Osborne and adjacent territory, to borrow money and to levy a tax for the purpose of building a school house.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the board of education of the incorporated village of Osborne, and territory annexed for school purposes, in the county of Greene, be and are hereby authorized to borrow a sum of money, not exceeding the sum

of eight thousand dollars at a rate of interest not exceeding eight per cent. per annum, to be expended in the building of a school house for the said school district; and said board of education is hereby authorized to issue bonds for the amount of money so borrowed, the principal and interest of said bonds to be made payable at such times and in such proportions as said board of education may stipulate therein; said bonds to be signed by the president and secretary of said board of education. To pay the bonds which may be issued under the provisions of this act, and the interest on the same as they become due, said board of education is hereby authorized to levy a tax in addition to other levies for school purposes on all the taxable property of said incorporated village and territory annexed for school purposes sufficient to pay said bonded indebtedness.

SEC. 2. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
 J. C. LEE,
President of the Senate.

Passed April 26, 1869.

AN ACT

To amend and supplementary to an act entitled an act to amend and supplementary to an act entitled an act in relation to Taxes, Schools and Sewers in the city of Toledo, passed April 2, 1866.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section five of said amendatory and supplementary act be so amended as to read as follows:

Section 5. That to enable said board of education to anticipate the money to be raised under section three of this act, and to use the same in such amounts as the necessities of the public schools in said city may require, they are hereby authorized to borrow such sum or sums, from time to time, as may be required for immediate use, and to issue bonds therefor, in amounts not less than fifty nor more than one thousand dollars each, with coupons attached, bearing half yearly interest. Every such bond shall mature and be payable at such time not more remote than ten years from the date of issue, and shall bear interest not exceeding the rate of eight per centum per annum, as the board shall provide; but in no year shall the aggregate of principal and interest to fall due exceed the tax levied or authorized to be levied and collected, to meet expenditures for school sites, buildings and furniture for that year, nor shall said bonds be disposed of for less than their par value.

SEC. 2. That section eleven of said act in relation to taxes, schools and sewers in the city of Toledo, passed March 9th, 1849, be so amended as to read as follows:

Section 11. The board of education in said city shall consist of one school director from each ward. The school election shall be held on the second Tuesday of May annually. The polls of said election shall be opened at ten o'clock in the forenoon, and closed at seven o'clock in the

afternoon, and shall be held at the usual place of holding elections in each ward from which a vacancy is to be filled. The city council shall appoint the judges and clerks for each poll, and the electors present may fill the places of all who are absent or decline to act on the election board. And such elections shall be conducted in the same manner as elections for city officers, with the same tests as to eligibility to office and the right to vote. The returns of such elections shall be made to the city clerk, who shall forthwith make an abstract of the votes, and deliver the usual certificates to the persons elected. And within ten days after the first election, the members elect shall meet, on the call of the president of said board, to organize, and, under his direction, cast lots for the duration of the term of service of each director, so that three of said directors shall serve for three years, three for two years, and the remainder for one year; and at each annual school election thereafter a director shall be elected in each of the respective wards represented by a director whose official term is about to expire. And should the number of wards be increased, classifications shall be made as to the directors from new wards in the same manner and under the same direction, so that one-third of the members of said board, as near as may be, shall go out each year.

SEC. 3. That said board of education may, if it seem necessary, annually elect a competent person, not of its own body, to act as its secretary, and may prescribe his duties and fix his compensation; and may also elect, prescribe the duties and fix the salary of a competent person to act as overseer of school buildings and fuel, who, under the direction of the board, shall see that all such buildings and the appurtenances thereof are kept in good order and repair, and perform such other duties as said board may direct.

SEC. 4. It shall be unlawful for any member of said board to have any pecuniary interest, directly or indirectly, in any contract for the erection, repair or enlargement of a building for school purposes under their control, or for warming, ventilating, furnishing or repairing the same, or in any other matter connected with the supplies or maintenance of public schools in said city.

SEC. 5. That said board of education, when they are unable, on account of legal disability or otherwise, to agree with the owner or owners of any land needed as a school site, or to enlarge such site, may, in the name of said board, proceed to appropriate the same in the manner prescribed in the act supplementary to the act to provide for the organization of cities and incorporated villages, passed March 11, 1867.

SEC. 6. That original sections five and eleven aforesaid are hereby repealed, but all rights accrued thereunder are hereby saved. And the members of the present board and the officers thereof, shall continue to act until regularly succeeded under this act.

SEC. 7. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed April 22, 1869.

AN ACT

To amend an act entitled "an act to authorize the location and construction, by the County Commissioners of Scioto County, of Free Turnpike and Plank Roads," passed April 5, 1866. (O. L., vol. 63, pages 207 and 208.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section five of the above recited act be so amended as to read as follows:

Section 5. That upon the location and establishment of any such free turnpike or plank road by the county commissioners, they shall be authorized, for the purpose of aiding in the construction and to provide a permanent fund for the maintenance and expense thereof, to levy annually, in addition to other road taxes authorized by law, a tax for turnpike and plank road purposes of not more than four mills on the dollar of valuation on the grand duplicate of taxable property in such county, and to continue such levy from year to year until any such road or roads which may have been commenced shall be completed; provided, however, that said commissioners shall have power to receive subscriptions and donations in money or property, real or personal, which shall be applied to the construction or improvement of said road; and they shall also be authorized to issue bonds and borrow money thereon for the purpose of constructing or completing any such road sooner than otherwise provided by this section, whenever any parties interested in the construction of such road shall raise money by subscriptions or otherwise sufficient to pay the interest on such bonds for the time the same may run, or shall by good and sufficient security guarantee the payment of the same to said commissioners.

SEC. 2. That said original section five be and the same is hereby repealed.

SEC. 3. This act shall be in force from and after its passage.

F. W. THORNHILL,

Speaker of the House of Representatives.

T. J. GODFREY,

President pro tem. of the Senate.

Passed April 30, 1869.

AN ACT

For the relief of Harrison Bute.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the trustees of Pultney township, Belmont county, Ohio, be and they are hereby authorized to pay to Harrison Bute nine hundred and seventy-four dollars (\$974), being the amount forcibly taken from his safe on the 26th day of September, 1863.

SEC. 2. That the said trustees be, and they are hereby authorized to cause to be levied, upon the taxable property of said township, a tax sufficient in amount to carry out the provisions of the first section of this act.

SEC. 3. That this act shall take effect and be in force from and after its passage.

F. W. THORNHILL,

Speaker of the House of Representatives.

J. C. LEE,

President of the Senate.

Passed April 30, 1869.

AN ACT

For the relief of George W. Fauley, Treasurer of Newton township,
Muskingum county, Ohio.

WHEREAS, The store of George W. Fauley, treasurer of Newton township, Muskingum county, Ohio, was burglariously entered on the night of the 17th of July, 1868, and his safe blown open with gun powder, and the sum of two hundred and twenty-four dollars and forty-four cents (\$224.44) belonging to said township stolen therefrom; and

WHEREAS, One hundred and thirty tax payers, by their petitions to this general assembly, represent that said robbery was not due to any fault or negligence on the part of said George W. Fauley, and pray that a special tax be authorized to be assessed upon the tax payers of said township, to reimburse the said George W. Fauley the amount so stolen; therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the trustees of Newton township, Muskingum county, Ohio, be and they are hereby authorized and empowered to levy a tax upon the taxable property of the said township, to the amount of two hundred and twenty-four dollars and forty-four cents, and with the said sum of money reimburse the said George W. Fauley for the money stolen as above recited.

SEC. 2. This act shall take effect and be in force upon its passage.

F. W. THORNHILL,

Speaker of the House of Representatives.

J. C. LEE,

President of the Senate.

Passed April 30, 1869.

AN ACT

To authorize the Commissioners of Hardin county, to levy a tax to purchase and improve Fair Grounds for the Agricultural Society of said county.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the commissioners of Hardin county, be and they are hereby authorized to levy, on the grand duplicate of said county, at the June session for the years 1869 and 1870, a sum sufficient, not exceeding one-half mill for each of said years on the dollar of all the taxable property of said county, for the purchase and improvement of fair grounds of Hardin county agricultural society.

SEC. 2. It shall be the duty of the board of directors of said agricultural society, to certify to the county auditor, on or before the first Monday of June in each of the above years, the amount necessary to be expended during the current year for such purchase and improvement, not exceeding the amount authorized to be levied by the first section of this act, which amount so certified shall, by said auditor, be placed on the grand duplicate of said county, and collected by the treasurer of said county, in the same manner as state and county taxes are collected.

SEC. 3. When the collection is made by the treasurer as aforesaid, in each year, at his semi-annual settlement for the taxes of said years, the auditor of said county shall issue his order for the sum so collected, to the treasurer of said agricultural society, on his filing with such auditor an undertaking in double the amount so collected, with good and sufficient surety, to be approved by the auditor, conditioned for the faithful paying over and accounting for all funds that may come into his hands by virtue of the provisions of this act.

SEC. 4. All grounds and improvements purchased and made as aforesaid, and all grounds owned by said agricultural society as sites whereon to hold their fairs, shall be under the exclusive control and management of the board of directors of said agricultural society; and should said society be dissolved or cease to exist, all of said grounds and improvements so owned by such society, shall vest in fee in said county of Hardin.

SEC. 5. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
 J. C. LEE,
President of the Senate.

Passed May 4, 1869.

AN ACT

To authorize the trustees of Butler township, Montgomery county, to levy a tax to pay money borrowed by certain citizens of said township for the purpose of procuring volunteers to fill the quota of said township under the call of the President of the United States of December 19, 1864.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the trustees of Butler township, Montgomery county, be and they are hereby authorized to levy a tax on the property of said township, for the year 1869, sufficient to pay Henry Waymire, S. J. Taylor and J. W. Underwood, the sum of \$443.00, with interest thereon from the first of January, 1869, said money having been borrowed and advanced by them on the authority of citizens of said township, assembled at a public meeting for the purpose of raising money to pay bounties to volunteers to clear said township from the draft under said call of the president.

SEC. 2. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
 J. C. LEE,
President of the Senate.

Passed May 4, 1869.

AN ACT

To provide for clearing the channel of Big Beaver river, in Mercer county, Ohio.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the commissioners of Mercer county, be and they are hereby authorized to contract for ditching Big Beaver river, in said county; said ditch to extend from the west bank of the reservoir, in said county, to the point where said Beaver river empties into the Wabash river; said ditch to be thirty feet wide and six feet deep from the surface of the water.

SEC. 2. Said commissioners shall give notice of the time of letting said contract, in some newspaper of general circulation in said county, at least thirty days previous thereto; said contract shall be awarded to the lowest responsible bidder, who shall execute to said commissioners a bond, with good and sufficient sureties, conditioned for the performance of said contract.

SEC. 3. In consideration of the damages done the land owners along said stream, in the erection of the reservoir, there may be appropriated, out of any money in the state treasury not otherwise appropriated, a sum equal to one-half the actual cost of constructing said ditch, but in no case to exceed the sum of thirty-five thousand dollars.

SEC. 4. The said commissioners of Mercer county, shall, from time to time, certify to the auditor of state, the amount due said contractor; and the said auditor shall draw his warrant on the state treasurer for one-half the amount so certified. The governor shall appoint a practical engineer, who shall proceed forthwith to survey and make an estimate of the cost of constructing said ditch, and file a copy of said survey and estimates with the auditor of state and the commissioners of Mercer county. The said engineer shall receive for his services, a sum not exceeding five dollars per day, for the time employed, out of the amount that may be appropriated in aid of the said ditch.

SEC. 5. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,

Speaker of the House of Representatives.

J. C. LEE,

President of the Senate.

Passed May 4, 1869.

AN ACT

To authorize a transfer of the property of the "Dayton Female Association for the benefit of Orphans."

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the trustees of the "Dayton Female Association for the benefit of Orphans," of Montgomery county, Ohio, are hereby authorized and empowered to transfer the personal and real estate now owned by said

association, to an association for the support of widows and destitute women, on such terms as said trustees may deem proper.

SEC. 2. This act shall take effect from and after its passage.

F. W. THORNHILL,

Speaker of the House of Representatives.

J. C. LEE,

President of the Senate.

Passed May 4, 1869.

AN ACT

To authorize the trustees of Madison township, Sandusky county, to levy a tax to pay the indebtedness of said township.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the trustees of Madison township, in the county of Sandusky, in addition to their other powers of taxation, be and they are hereby authorized to assess and collect, on the grand levy of the taxable property of said township for the year 1869, a tax not exceeding three mills on the dollar, to be applied in liquidating the present indebtedness of said township for building of bridges.

SEC. 2. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,

Speaker of the House of Representatives.

J. C. LEE,

President of the Senate.

Passed May 4, 1869.

AN ACT

To authorize the commissioners of Coshocton county to build a bridge over the Mohecan river, near the town of Walhonding, in said county.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the commissioners of Coshocton county, Ohio, be and they are hereby authorized to levy a tax, in the year 1870, on all the taxable property within the limits of said county, sufficient to build a bridge across the Mohecan river, near the town of Walhonding, in said county; provided, that before the said commissioners shall levy said tax, the trustees of Newcastle township, in said county, shall raise by voluntary subscription, or by a tax levied on the taxable property of said township, or by both, a sum to be agreed upon by the commissioners and trustees aforesaid, to aid in the erection of said bridge.

SEC. 2. The trustees of said Newcastle township are hereby authorized to certify to the county auditor the amount so agreed upon to be raised by tax, which shall be levied and collected as other taxes are

levied and collected, and applied by the county commissioners in the erection of said bridge, and for no other purpose.

SEC. 3. This act shall be in force from its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
 J. C. LEE,
President of the Senate.

Passed May 5, 1869.

AN ACT

To authorize the commissioners of Vinton county to construct Free Turnpike Roads in said county.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the commissioners of Vinton county shall have the authority and power, and they are hereby authorized as hereinafter provided, to lay out, construct or improve, by altering, grading, draining, paving, planking, graveling or macadamizing a turnpike road from the northern to the southern boundaries of said county and also a turnpike road from the eastern to the western boundaries of said county, said roads to intersect at the village of McArthur in said county; provided, that said commissioners shall lay out and construct the said roads as nearly as practicable upon the state road leading from McArthur to Albany, in Athens county, and also upon the state road leading from McArthur to Logan, in Hocking county, via New Plymouth or New Mt. Pleasant, and also upon the state road leading from McArthur to Adelphia or Londonderry, in Ross county, and also upon the state road leading from McArthur to Pomeroy and Gallipolis, via Wilkesville, or to Jackson via Hamden, the said commissioners to determine upon the routes for said roads, taking into consideration the comparative expenses of constructing said roads upon the said routes, as well as the benefits to the people of the county, and the practicability of meeting turnpike roads constructed or being constructed in said counties adjoining, and also the amount of donations along the respective routes.

SEC. 2. It shall be the duty of the said commissioners, to appoint three competent freeholders of said county, and a skillful engineer or surveyor, to proceed, upon a day to be named by the commissioners, to examine, view, review, lay out, alter or straighten such of said routes or roads as in their opinion public convenience and utility may require. And the county auditor shall notify said viewers and surveyor of the time and place of their meeting to make said view, and shall also give notice by publication in a newspaper printed in said county, for three consecutive weeks prior to said meeting, which said notice shall state the time and place of the said meeting, the road or roads to be viewed, the kind of improvements to be made, and also that the said viewers will receive proposals for subscriptions or donations for constructing said roads; provided, that if the said commissioners shall deem it necessary, they may appoint at the same time viewers and a surveyor upon each of said roads.

SEC. 3. The said viewers and surveyor so appointed shall meet as directed by the commissioners, or within five days thereafter, and after taking an oath or affirmation to faithfully and impartially discharge the

duties of their appointments respectively, shall take to their assistance two suitable persons as chain carriers and one marker, who shall also be sworn, and proceed to view, review, examine, lay out, alter or straighten, and survey and carefully mark, as in their opinion public utility and convenience require, said route or road as directed by said commissioners; and they shall assess and determine the damages sustained by any person or persons through whose premises said road is proposed to be laid out, altered, straightened or improved; provided, that such viewers shall not be required to assess damages to any person or persons except minors, idiots or lunatics, in consequence of the appropriation of any private property for the making of said improvement, unless the owner or owners thereof or their agents shall have filed a written application with said viewers, giving a description of the premises on which damages are claimed by him or them; and in all cases where damages are claimed by reason of the appropriation of any lands, the said viewers shall allow a fair and reasonable compensation for such lands so appropriated; provided further, that all applications for damages shall be barred unless they be presented as above required.

SEC. 4. That said viewers shall be authorized to receive propositions for subscriptions and donations in money or property, real or personal, to be applied to the construction of said roads, and to receive proposals for the purchase of timber, stone, gravel, or other material necessary for the construction of said roads, which said proposals shall be in writing, signed by the person or persons making the same, and directed to the commissioners of said county.

SEC. 5. The said viewers and surveyor shall, upon the completion of their said view and survey, report to the commissioners of said county their proceedings therein: First, the route or routes by them viewed and surveyed, with a correct plat of the same, setting forth the said road in sections of one mile each, also the grade and surface of the ground over which said road passes. Second, the initial and any intermediate points and the termination of said road. Third, a carefully prepared estimate of the probable costs and incidental expenses of constructing, grading and macadamizing said road. Fourth, the quality, quantity and probable costs of material necessary for constructing said road. Fifth, the number and kind of culverts and bridges necessary upon said road, with length of span and probable cost of each respectively. Sixth, the amount of damages claimed and by whom, the amount of damages assessed and to whom allowed, by reason of any alteration in or the construction of said road. Seventh, the names of all persons owning lands lying within one mile of the line of said road, the amount in acres within said one mile belonging to each land owner respectively; and also the names of all persons owning lands lying within two miles and beyond one mile of the line of said road, and the amount in acres owned by each person respectively; also all in and out lots in any town or village lying within such boundaries, and the names of the owners thereof. Eighth, they shall further report any [and] all donations or subscriptions pledged, and any propositions for the sale of materials for the construction of said road or any part thereof; provided, that where two or more routes are viewed and surveyed for the purpose of locating either one of said roads, the viewers shall report in detail as herein provided upon each route.

SEC. 6. Upon the return of the report mentioned in the last section, the commissioners shall meet at the office of the county auditor, and shall determine any question as between two or more routes reported upon, and shall enter upon their record an order, which said order shall state the

route upon which said road is located, the kind of improvement to be made, and the width and extent of the same; and the county auditor shall thereupon give notice, by publication for three consecutive weeks in some newspaper of general circulation published in said county, of the time when the commissioners will meet at the office of the auditor to hear any exceptions that may be filed to the said report; and on the day named in said notice the commissioners shall meet, and if no exceptions have been filed as to any damages allowed to any land owner affected thereby, they shall confirm the same, but if exceptions in writing shall have been filed by any land owners affected thereby, they shall first proceed to hear said exceptions, and for that purpose they shall hear any testimony that may be offered by any party interested, and either of said commissioners shall be authorized to administer oaths to witnesses. After such hearing they may either confirm said report or change the same, or they may refer the matter of said exceptions to a reviewing committee of three disinterested freeholders of the said county, one of whom may be selected by the party excepting, and said commissioners may confirm said report as to all other matters. In case last named of a reference of any part of said report, the reviewing committee shall, upon actual view of the premises, make report upon their oaths of a reassessment of the damages, or they may recommend the confirmation of the former report, and their report so made upon the matters so referred shall be final, and the final action of the commissioners shall be entered upon their records, together with the report as confirmed; provided, that an appeal may be taken to the probate court by any freeholder who may feel him or herself aggrieved by the action of the said commissioners, and the same proceedings shall be had, and like orders and judgments rendered as are provided for appeals by claimants for damages in the act entitled an act to amend an act entitled an act opening and regulating roads and highways, passed January 27, A. D. 1853, as passed and took effect April 8, A. D. 1856, (S. & C. Statute, page 1301); provided further, that the guardian of any minor, idiot or insane person, may act for, and all his acts shall be binding upon, his said wards; provided further, that if any person shall file exceptions to said report, or shall take an appeal from the final action of said commissioners, and shall fail to receive a greater amount of damages than was assessed by the viewers, the person so excepting or appealing shall pay the costs of said review and appeal.

SEC. 7. The commissioners of said county shall contract with the lowest and best bidders for the grading and paving, or macadamizing of said roads so ordered to be constructed, and shall adopt such rules and specifications for the construction of said roads or any part thereof, as they may deem best for the public interests; and they shall advertise, in one or more newspapers of general circulation published in said county, for three consecutive weeks, stating the time and place of receiving sealed proposals for the construction of said roads by sections, no section to be less than one mile in length, the character of the work to be done, the material to be used, the width and depth of paving or macadamizing, and such other information as may be deemed important to bidders and for the security of the public interests; and said commissioners shall require all persons or firms, to whom contracts may be awarded for constructing any sections or parts of said roads, to enter into bonds, with two good and sufficient sureties, in the penal sum of one thousand dollars for each mile of road so awarded to them, for the faithful performance of the contract so awarded, and no section of road shall be held to be let for construction, until such bond shall be accepted by the commissioners and filed with the

auditor of said county; provided, that the bridges over water-courses shall be built by said commissioners as now provided by law; provided, further, that if the commissioners shall decide to construct any portion of said roads before letting other portion, they shall construct first those parts nearest the intersection of said roads.

SEC. 8. That for the purpose of paying the cost and incidental expenses of constructing the roads as herein provided, it shall be the duty of the commissioners of said county of Vinton, to levy and apportion, upon the land lying within one mile of either of said roads as located, fifteen per cent.; and upon lands lying within two miles and beyond one mile, ten per cent. of the entire cost of constructing the same, except the bridges; and the residue of the cost of said roads, they shall assess upon all the taxable property of the county upon the general duplicate, the same as other county taxes are assessed. The county auditor shall make special duplicates of the lands and lots lying within one and two miles of either road as located as hereinbefore mentioned, and such proportion of the tax, in accordance with the rates above prescribed, as the commissioners shall levy, shall be entered therein; provided, however, that the taxes so levied shall not exceed, in any one year, one-fifth part of the estimated cost of completing said road as herein provided for; and the taxes so levied, shall be upon the value of said lands, lots and other property as established at the time of making said levy; and said taxes shall be collected by the treasurer of said county as other taxes are collected, and constitute a fund to be known as the "Turnpike Fund" of said county; and the first levy of taxes, as in this section provided, shall be made by the county commissioners at the June session following the passage of this act; and annually thereafter, they shall levy taxes as herein provided, until the entire cost of said roads shall be provided for and paid; provided, further, that the commissioners shall direct the collection of such a proportion of the taxes upon the special duplicate as the number of miles of road actually contracted is of the entire road; provided, further, that the commissioners may increase or diminish said levy whenever the same having been made upon the estimate of cost shall be less than or in excess of the actual costs of constructing said road.

SEC. 9. That the commissioners of said county are hereby authorized, should they deem the same necessary, in order to secure the early construction of the roads herein provided for, to issue bonds, pledging the faith of the county for the payment thereof, in denominations of not more than five hundred dollars nor less than fifty dollars, bearing interest, not exceeding the legal rate per cent. per annum, payable semi-annually; the said bonds being payable in not more than five years from the date of issue, and shall not be sold at less than their par value; and said bonds, when payable, shall be redeemed with money of the said "Turnpike Fund;" and said bonds so issued, shall be signed by the commissioners and countersigned by the auditor, and shall be numbered and registered, and the county auditor shall keep a record thereof; provided, that the aggregate amount of bonds so issued, shall not exceed one per cent. of the aggregate of the property upon the grand duplicate of the said county of Vinton, and the moneys received from the sale of said bonds, shall be placed in the county treasury to the credit of the turnpike fund, and the county treasurer shall be held responsible therefor, the same as he is held responsible for moneys collected on the tax duplicate; and the county auditor shall keep an account with the turnpike fund in the same manner that accounts are now kept with other funds of the county.

SEC. 10. The commissioners of said county shall take care to see tha

the contracts for the construction of said roads are faithfully fulfilled, and the roads properly and durably constructed, for which purpose they may appoint a superintendent for each of said roads, who shall act under the instruction and direction of the county commissioners. The county commissioners shall allow such compensation, not to exceed three dollars per day, as they deem proper, to such superintendent, with full power to remove such superintendent from office, when in their opinion he does not faithfully discharge the duties assigned him.

SEC. 11. The commissioners of said county shall keep a record of their proceedings under this act, in the office of the county auditor, and all reports, estimates and contracts shall be deposited with said auditor, and be open to the inspection of all persons.

SEC. 12. The commissioners shall have power to receive subscriptions and donations in money or property, real or personal, which shall be applied to the construction or improvement of said road; and the said commissioners shall have the power to contract for and purchase such stone, gravel, or other material, as may be necessary for the construction of said road; and if the commissioners and the owners of such stone, gravel, or other material, cannot agree on a price deemed fair and reasonable, the commissioners may apply to the judge of the probate court of the county to appoint appraisers to assess the value of said stone, gravel, or other material; and on the filing of such application, it shall be the duty of the probate judge of the county to appoint three disinterested freeholders, who, after being duly sworn to impartially assess the value of the said materials, or any part of the same, shall enter upon the premises of the owner or owners of said materials, and assess the value thereof; they shall also assess the damages that will accrue to the owner or owners of said material by the removing of the same through his premises; the appraisers shall, within ten days after their appointment, return their award to the probate court; the judge of the probate court shall, upon the return of said award, on application of the commissioners, furnish them a copy of said award; thereupon said commissioners may enter upon the lands, either inclosed or uninclosed, and remove such stone, gravel, or other material, as may be required to make a good road. An appeal from the decision of the appraisers may be allowed to the court of common pleas, if taken in thirty days after the rendering of said award; but such appeal shall not prevent the immediate entry upon the premises by the commissioners, for the purpose of taking said stone, gravel, or other material; and if the court of common pleas should render a judgment for not more than the appraisers' allowance, the appellant shall pay all costs and damages.

SEC. 13. That the commissioners, auditor and treasurer of said county, shall receive such compensation for services under this act, as may be allowed by law for similar services in the performance of the duties of their respective offices; and the viewers and engineers provided for in section two of this act, shall receive such reasonable compensation for their services as may be determined by the county commissioners; and the compensation provided for above, in this section, shall be paid out of the county treasury as other county expenses are paid; provided, that the county treasurer shall not be allowed fees upon any moneys derived from the sale of bonds, should any be issued as provided in section five of this act; and all other necessary costs and expenses of constructing said roads, shall be paid from the "Turnpike Fund" herein provided for, by order of the commissioners upon warrants of the auditor.

SEC. 14. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
 J. C. LEE,
President of the Senate.

Passed May 5, 1869.

AN ACT

To authorize the Commissioners of Vinton county, Ohio, to levy a special tax on the taxable property of said county, for the purpose of reimbursing the county treasurer of (1866) of said county on account of money burglariously taken from the county safe while acting as such treasurer.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the commissioners of Vinton county are hereby authorized to levy a special tax on all the taxable property of said county, in such ratio as will secure the sum of three hundred and fifty dollars, the same to be certified to the auditor of the proper county, who shall enter the same on the tax duplicate and proceed to collect as other taxes are collected; and when so collected the same shall be applied to the reimbursing of one David Foreman of that amount, which was burglariously taken from the county safe while he was acting treasurer of said county, and which he has since made good to the county from his own private funds.

SEC. 2. This act to take effect from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
 J. C. LEE,
President of the Senate.

Passed May 6, 1869.

AN ACT

For the relief of Henry Kitchen.

WHEREAS, Henry Kitchen, of Miami county, has been erroneously taxed on forty acres of land in section 19, township 6, range 6, in said county, for the years 1860 to 1867, inclusive;

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the auditor of state be directed and required to ascertain the amount of tax erroneously paid by said Kitchen, and came into the treasury of the state; and shall draw his warrant for the same on the treasurer of state, with interest from the time of such payments.

SEC. 2. That the auditor of Miami county be directed and required to ascertain the amount of taxes erroneously paid and came into the county

treasury for any and all purposes whatsoever, and to draw his warrant therefor, with interest from the time of such payments, upon the treasurer of said county, who shall pay the same out of any surplus or unexpended funds of said county in the county treasury.

SEC. 3. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed May 6, 1869.

AN ACT

To authorize the Board of Education of Union township, Brown county, Ohio, to levy a tax to pay indebtedness of said Board of Education.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the board of education of Union township, Brown county, are hereby authorized to levy a tax on all the taxable property of said township, not to exceed one and one-quarter mill on the dollar of taxable property of said township, for the purpose of paying certain indebtedness of said board of education.

SEC. 2. This act to take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed May 6, 1869.

AN ACT

To authorize the board of education of Porter township, Scioto county, Ohio, to issue bonds and levy a tax to raise money to build a school house.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the board of education of Porter township, Scioto county, Ohio, be and it is hereby authorized to raise by tax a sum not exceeding three thousand six hundred dollars, for the purpose of building a school house within school district number one in said township; that the said sum be raised in three annual installments of twelve hundred dollars each.

SEC. 2. That the said board of education is hereby authorized to anticipate the amount so to be raised by borrowing such a sum, not exceeding the above amount, as shall be necessary for that purpose and for paying the interest thereon, and is authorized to issue the bonds of said town-

ship in such denominations and at such a rate of interest, not exceeding eight per cent., as said board shall determine.

SEC. 3. This act shall be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
 J. C. LEE,
President of the Senate.

Passed May 6, 1869.

AN ACT

To enable the Board of Education of Benton township, Monroe county, to levy a tax for school purposes in said township.

SECTION. 1. *Be it enacted by the General Assembly of the State of Ohio,* That the board of education of Benton township, Monroe county, are hereby authorized and empowered to levy a tax on the taxable property of said township of Benton, of one-half mill on the dollar, in addition to the levy now authorized by law, to pay the tuition debts of said township, which levy may be made in the years 1869, 1870 and 1871, and shall be collected and paid over in the same manner as other school funds.

SEC. 2. This act to be in force from and after its passage

F. W. THORNHILL,
Speaker of the House of Representatives.
 J. C. LEE,
President of the Senate.

Passed May 6, 1869.

AN ACT

To authorize the trustees of Ottawa township, Allen county, Ohio, to levy a tax for Poor purposes.

SECTION. 1. *Re it enacted by the General Assembly of the State of Ohio,* That the trustees of Ottawa township, Allen county, Ohio, be and they are hereby authorized levy to a tax annually on all the taxable property of said township, not exceeding one mill on the dollar valuation, to be used and appropriated by said trustees for the temporary relief of the poor in said township.

SEC. 2. This act shall be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
 J. C. LEE,
President of the Senate.

Passed May 6, 1869.

AN ACT

To authorize the trustees of Harrison township, Preble county, to levy a tax for Bridge purposes.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the trustees of Harrison township, Preble county, be and they are hereby authorized to levy a tax not exceeding twenty-five hundred dollars on the taxable property within the limits of said township, to assist in building a bridge across Twin creek, east of the village of Lewisburg, where the Lewisburg and Salem road crosses said Twin creek in said township; and said trustees shall certify the amount not exceeding twenty-five hundred dollars, to the county auditor, who shall place the same on the tax duplicate for said township, to be collected as other taxes, and paid to the proper township officers, to be expended for the purpose for which it was created.

SEC. 2. This act shall take effect from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed May 6, 1869.

AN ACT

To authorize the trustees of Addison township, Gallia county, to levy a tax to refund stolen money to Addison township, and to James Barton, treasurer of said township.

WHEREAS, The trunk of James Barton, treasurer of Addison township, Gallia county, Ohio, in which the funds of the township were deposited, was broken open some time between the 11th and 17th of March, 1869, and the sum of eight hundred and thirty dollars and four cents of the funds of said township stolen therefrom; therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the trustees of said Addison township, be and are hereby authorized to cause to be levied, upon the taxable property of said township, a tax sufficient in amount to relieve said James Barton, and make good to said Addison township, the said sum of eight hundred and thirty dollars and four cents.

SEC. 2. This act shall take effect on its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed May 6, 1869.

AN ACT

To provide for the removal of the seat of justice of Fulton county, Ohio.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That from and after the taking effect of this section of this act, as herein-after provided, the seat of justice in the county of Fulton, shall be removed from the town of Ottokee, and shall be permanently fixed, until otherwise provided by law, at the town of Wauseon, in said county.

SEC. 2. That the foregoing section of this act shall take effect and be in force when and so soon as the same shall be adopted by a majority of all the electors of said Fulton county, voting at the next general election after the passage thereof, as hereinafter provided.

SEC. 3. The electors of said Fulton county, at the next general election after the passage of this act, shall indorse or otherwise place on their tickets, either the words "*For Removal*" or "*Against Removal*," and if a majority of all the electors of said Fulton county voting at said election shall vote "for removal," the first section of this act shall thereupon be considered and holden to be adopted by such majority; provided, that all tickets upon which the words "for removal" shall not be indorsed or otherwise placed, shall be taken and considered as votes against removal as fully as though the words "against removal" were indorsed or otherwise placed thereon.

SEC. 4. That the judges and clerks of election in the several townships in said county at the said general election, shall cause all the votes that may be given for removal or against removal, to be correctly counted in the same manner that other votes are by law required to be counted, (in doing which all tickets upon which the words "for removal" shall not be indorsed or otherwise placed, shall be counted as votes against removal as fully as though the words "against removal" were indorsed or otherwise placed thereon,) and they shall enter and certify in the poll books respectively of such general election, the number of votes so counted for removal, and the number so counted against removal, which poll books shall be returned and opened as required by the acts regulating said general elections and the opening of the returns thereof; and the officers opening the returns of said election, shall at the same time that they make, certify and sign the abstracts required by law, also make, certify and sign a separate abstract of all the votes so returned for removal or against removal, showing the numbers so given in such township, and the footings or aggregate number so given in all the townships, which abstract shall forthwith be deposited in the clerk's office of said county, and shall forthwith be recorded by the clerk in the journal of the court of common pleas of said county; which record, or duly certified copy thereof, shall be taken and received as legal evidence for all purposes of the result of said voting.

SEC. 5. That in case a majority of the electors in said county of Fulton shall vote "for removal," as heretofore provided, the public business of the county shall continue to be transacted in the buildings now occupied for holding courts and for other county purposes, until such time as a new court house, with suitable offices, shall be erected at the new seat of justice, as provided by law.

SEC. 6. Nothing in this act shall be so construed as to authorize a removal of said county seat from Ottokee to Wauseon, until the sum of at least five thousand dollars (\$5,000) shall have been donated and paid to the commissioners of said county of Fulton, to be used in the erection of the requisite county buildings in said town of Wauseon.

SEC. 7. It shall be the duty of the sheriff or coroner, as the case may be, to cause proclamation to be made to the duly qualified voters of said county, in the same manner and at the same time as by law he is required to do in other elections, notifying said electors to vote as aforesaid, on the questions by this act submitted to them; provided, however, that no omission so to do shall in any manner impair the validity of any vote taken under the provisions of section four of this act, and notwithstanding such omission, the judges and clerks of said election shall return the result of said vote as hereinbefore provided.

SEC. 8. The sections in this act, subsequent to the first, shall take effect and be in force from and after its passage.

A. T. WALLING,
Speaker pro tem. of the House of Representatives.

J. C. LEE,
President of the Senate.

Passed May 6th, 1869.

AN ACT

To authorize the Board of Education of the incorporated village of Westwood, in the county of Hamilton, to sell certain real estate therein named, and to borrow money, purchase a site and build a school house.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the board of education of the incorporated village of Westwood, in Hamilton county, be and they are hereby authorized and empowered, to purchase a site and build a school house thereon, at a cost not to exceed twenty thousand dollars.

SEC. 2. That for the purpose of providing funds to pay for said site and school house, the board of education are hereby authorized to issue their bonds, signed by the president and secretary of said board, in sums of not less than fifty dollars nor more than five hundred dollars each, bearing interest at a rate not exceeding eight per cent. per year, payable semi-yearly, for an amount not exceeding in the aggregate the sum of twenty thousand dollars, and payable at any time, not exceeding ten years from the time of issuing the same, at the discretion of said board; provided, that said bonds shall not be sold for less than their par value.

SEC. 3. That for the purpose of paying the said bonds and the interest thereon, as the same shall become due, the said board of education are hereby authorized and empowered to levy, on the taxable property of the incorporated village of Westwood, Hamilton county, such amount annually, as will be sufficient to pay the principal of the debt that shall fall due each year especially, and also the interest falling due annually on all of the bonds so issued, and the money so raised shall not be used for any other purpose.

SEC. 4. The said board of education are hereby authorized and empowered to sell the school house and school house lot of said district, for

the purpose of procuring a more central position, and the money arising from such sale shall be, by such board of education, applied towards the purchase of a site and the building of a school house as hereinbefore provided.

SEC. 5. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

May 7, 1869.

AN ACT

To authorize the trustees of Clark township, Brown county, Ohio, to levy a tax to refund borrowed money to pay bounties.

WHEREAS, John W. McGohan, S. H. Ellis and Jasper Leming, citizens of Clark township, did, at the request of the citizens of said township, act as a military committee for said township, and at the request of the citizens of said township and as such committee, did borrow the sum of five hundred dollars for the purpose of paying bounties to volunteers to fill the quota of said township, under the call of the president of the United States for the war of 1861, and that said money was expended for the benefit of said township in filling the quota of said township, and that said sum of five hundred dollars remain unpaid, and there being no authority by law for the payment thereof; and

WHEREAS, All the township officers of said township and the principal tax payers thereof have petitioned the legislature for the passage of a special act authorizing the trustees of said township to levy a tax to pay said sum so borrowed as aforesaid; therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the trustees of Clark township, Brown county, Ohio, be and they are hereby authorized to levy a tax upon the taxable property of said township for the years 1869 and 1870, in equal proportions, the sum of five hundred dollars, with the interest thereon, for the purpose of refunding to the said John W. McGohan, S. H. Ellis and Jasper Leming, the money by them borrowed and expended during the year 1864, in the payment of bounties for said township in filling the quota thereof; provided, that no tax shall be levied under the provisions of this act, until the propriety of the same has been submitted to and received the approval of a majority of the legal voters of said township at some general election to be held therein.

SEC. 2. This act to be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed May 7, 1869.

AN ACT

For the relief of John Clinger, Treasurer of Washington township,
Hardin county, Ohio, and his sureties.

WHEREAS, The dwelling house of John Clinger, treasurer of Washington township, Hardin county, Ohio, was burglariously entered in the night season, on or about the twenty-second day of June, 1866, and the sum of six hundred and nineteen dollars and eighty-six cents, (\$619.86) in his hands as such treasurer, taken therefrom; and

WHEREAS, Said treasurer was then and is still unable to pay said amount, and has no property out of which any part thereof can be made; and

WHEREAS, A large majority of the taxpayers of said township have petitioned this general assembly for the passage of a law authorizing the trustees of said township to settle with said treasurer and relieve his sureties; therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the trustees of Washington township, Hardin county, Ohio, be and they are hereby authorized to settle with said John Clinger, and relieve him and his sureties on his official bond as treasurer of said township from the payment of said sum of six hundred and nineteen dollars and eighty-six cents, stolen as above recited, and the of said Clinger or his sureties, shall not hereafter be held liable to make up said stolen money to said township.

SEC. 2. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed May 7, 1869.

AN ACT

To authorize the citizens of Perry county, and localities within said county, to levy a tax to purchase fair grounds.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the commissioners of Perry county are hereby, as hereinafter provided, authorized to levy a tax not exceeding one tenth of a mill on the dollar valuation of the taxable property situate in said county, for not exceeding three years, commencing in 1869 or 1870, for the purpose of assisting the agricultural society of said county to purchase fair grounds for said society.

SEC. 2. That the township trustees of any township in which said fair grounds may be situate, or the municipal authorities of any incorporated village within one and a half miles of which said fair grounds may be located, may also, as hereinafter provided, levy a tax not exceeding one mill on the dollar valuation of the taxable property situate in such township or village, for the purpose of assisting said society in purchasing

and preparing fair grounds for the use of such county agricultural society, said tax to be levied for not exceeding three years, commencing in 1869 or 1870.

SEC. 3. That the money so raised as aforesaid, shall be paid over to the treasurer of said agricultural society on the warrant of the president of the same, when said warrant is approved of by the commissioners of said county, and shall be expended exclusively for the purposes specified in the first and second sections of this act; provided, that the fair grounds so purchased and prepared, shall never be sold or disposed of by said society, without the consent of said county commissioners, township trustees and municipal authorities.

SEC. 4. The provisions of this act shall be submitted to the qualified electors of said county, township or municipal corporation, so proposed to be taxed for said purposes, at any election held in said county, township or corporated village; notice of the same being given to said qualified electors at least two weeks before said election, and if duly approved by a majority of the voters of said county, township or incorporated village, the said commissioners, township trustees or municipal authorities being duly notified thereof by the clerk of the court of common pleas, township clerk or corporation clerk, the said county commissioners, township trustees or municipal authorities are then thereby authorized to proceed to levy a tax as heretofore in this act provided for.

SEC. 5. The commissioners of said county shall, at their discretion, order such vote to be taken at any election for the years 1869 or 1870, giving notice thereof, and having the provisions of this act printed in two weekly newspapers of general circulation within said county, at least two weeks before such vote shall be taken. When such vote shall be taken, the commissioners of said county shall have printed on all tickets used at said election, the words "County Fair Tax." Those approving the provisions of this act, shall vote (write) on ticket opposite or below said words, the word "Yes," and those opposed to said provisions, in like manner the word "No."

SEC. 6. This act shall take effect and be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed May 7, 1869.

AN ACT

To the relief of David H. Douglas, Treasurer of Pleasant township,
Madison county, Ohio.

WHEREAS, The store of David H. Douglas, treasurer of Pleasant township, Madison county, Ohio, was burglariously entered on the night of September 16, 1868, and his safe broken open and the sum of seventeen hundred and sixty-two 28 100 dollars stolen therefrom, of which sum there was nine hundred and one dollars and twenty cents of public funds belonging to said township, to-wit: township school fund, three hundred and fifty-one dollars and six cents; building fund, one hundred and

ninety-eight dollars ; township fund, eight dollars and thirty-eight cents ; union school fund, three hundred and forty-three dollars and seventy-six cents ; and

WHEREAS, Two hundred and thirty-one tax payers, being a large majority of the citizens of said township, by their petition to the general assembly, represent that said robbery was not due to any fault or negligence on the part of said D. H. Douglas, and said petitioners ask for the passage of a law authorizing the trustees, and the board of education of said township, and the directors of the union schools therein, to levy a tax sufficient to raise the amount of public funds stolen as before stated, therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the trustees and board of education of Pleasant township, Madison county, Ohio, and the directors of the union school in Mt. Sterling in said township, are hereby authorized to submit at any regular or special election, and if special after thirty days notice thereof given by notices posted in at least six conspicuous places in said township, to the qualified electors of said township, the question of levying a tax to reimburse the different funds which were impaired by the robbery aforesaid, and upon an affirmative vote of a majority of those voting at said election on said question, said trustees shall cause to be levied on the taxable property of said township a sufficient amount to refund the sum of nine hundred and one dollars and twenty cents, and when said amount is collected, to be placed in proportion to each of the aforesaid funds, to the amount stolen therefrom ; and the trustees of said township are hereby authorized to release the said David H. Douglas, and his sureties on his official bond, as treasurer of said township, for the money stolen as above recited.

SEC. 2. This act to be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed May 7, 1869.

AN ACT

For the relief of Mrs. O. N. Stebbins.

WHEREAS, In the construction of the Wabash and Erie canal through the county of Henry, in the state of Ohio, a culvert was made for the purpose of permitting the waste water of said canal to pass off and flow into the Maumee river, and that the same in consequence flows through and upon the lands of Mrs. O. N. Stebbins, being twenty-five acres in section No. 9, town 5, range 7 east, which land was valuable for farming purposes ; and

WHEREAS, The said Mrs. O. N. Stebbins, has been entirely deprived of the use and benefit of said land, and spent large sums of money endeavoring to prevent the overflow thereof ; therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the board of public works be and is hereby, authorized and directed to investigate the claim of the said Mrs. O. N. Stebbins for damages from the overflow of said land, and report to the next general assembly.

SEC. 2. That said board of public works be and is hereby further authorized and directed to make such improvement of said culvert as may be necessary to prevent the overflow of the said lands of Mrs. O. N. Stebbins, from the waste water flowing from said canal; provided, that if the board of public works shall find it cheaper for the state to purchase said lands than to protect the same from overflow and to pay the damage thereon, said board shall so report as provided in section one of this act.

SEC. 3. This act to be in force from and after its passage.

F. W. THORNHILL,
Speaker of the House of Representatives.
 J. C. LEE,
President of the Senate.

Passed May 7, 1869.

JOINT RESOLUTIONS.

JOINT RESOLUTION,

Providing for a joint committee of the two houses to wait upon the Governor.

Resolved by the General Assembly of the State of Ohio, That a joint committee, consisting of three on the part of the house and two on the part of the senate, be appointed to wait on the governor and inform him that the two houses of the general assembly are now in session, and ready to receive any communication he may desire to make.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Adopted November 24th, 1868.

JOINT RESOLUTION,

Providing for the appointment of a committee to investigate Central Lunatic Asylum matter.

WHEREAS, The Central Lunatic Asylum being destroyed by fire so as to make the same untenable; and,

WHEREAS, The immediate construction of another building is absolutely necessary; therefore,

Resolved by the General Assembly of the State of Ohio, That a committee of five on the part of the house and three on the part of the senate, be appointed whose duty it shall be forthwith to investigate—

1st. The cause of the fire.

2nd. The extent of damages.

3rd. The propriety of repairing the old building.

4th. The propriety of selling the present site and applying the proceeds thereof to the erection of a new building at some other point; said committee to have power to employ some suitable architect to aid in their investigation, and shall have authority to sit during any vacation or session of the legislature, and report the result of their investigation to this general assembly on the first Tuesday of January, 1869, and that they have power to send for persons and papers.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Adopted November 24th, 1868.

JOINT RESOLUTION,

Relating to Statuary.

WHEREAS, The Hon. James Emmitt, senator from the 7th district of the state of Ohio, proposes to place certain statuary in the rotunda of the capital for ornamenting the same; therefore,

Resolved, That the superintendent of the state house be and he is hereby authorized and directed to take the necessary and proper care of the same.

F. W. THORNHILL,
Speaker of the House of Representatives.
 J. C. LEE,
President of the Senate

Passed November 25th, 1868.

JOINT RESOLUTION.

A joint resolution relative to allowing the assistant clerks, sergeants-at-arms, official reporters and messengers, the same mileage as members.

Resolved by the General Assembly of the State of Ohio, That the clerks and assistant clerks, the sergeants-at-arms and assistant sergeants-at-arms and official reporters and messengers of both branches of the legislature, residing away from Columbus, be allowed mileage the same as is paid members for the present session of the legislature; and the President of the Senate and Speaker of the House of Representatives are hereby authorized to issue warrants for the same, payable out of the funds appropriated for the contingent expenses of the general assembly.

F. W. THORNHILL,
Speaker of the House of Representatives.
 J. C. LEE,
President of the Senate.

Passed November 25th, 1868.

JOINT RESOLUTION,

Making assignment of Assistant Physicians for Northern and Southern Lunatic Asylums.

Resolved by the General Assembly of the State of Ohio, That the trustees of the northern and southern asylums, respectively, be authorized, on the nomination of the superintendent, to appoint an additional assistant physician, if in their opinion the same shall be necessary.

F. W. THORNHILL,
Speaker of the House of Representatives.
 J. C. LEE,
President of the Senate.

Adopted November 25th, 1868.

JOINT RESOLUTION,

For the appointment of a Committee to attend a Convention at Springfield, Illinois, to consider the Cattle Disease.

WHEREAS, Very serious losses have occurred to the cattle growing interest in Illinois, Indiana and the state of Ohio, during the past year, from the introduction of a disease communicated by cattle from beyond the Mississippi river, being transported through or pastured in the above named states; and

WHEREAS, The governors of Illinois and New York have agreed to call a convention or meeting at Springfield, Illinois, to take place the first of December, and to which meeting representatives from other states are respectfully invited, for the purpose of ascertaining what legislation is necessary to prevent the introduction or recurrence of this disease; and further to decide upon the necessary steps to be taken to secure harmonious and uniform laws, in relation to this subject, in the states east of the Mississippi river; therefore, be it

Resolved by the General Assembly of the State of Ohio, That the governor is hereby authorized to appoint a commission or committee of any number not exceeding five persons, whose duty it shall be to represent the state of Ohio at said convention in Springfield, Illinois, and report to the governor the action and recommendation of measures there passed, on or before the first Monday of January, 1869.

F. W. THORNHILL,
Speaker of the House of Representatives.

J. C. LEE,
President of the Senate.

Adopted November 25, 1868.

JOINT RESOLUTION,

To provide for printing certain Reports, &c., in the German Language.

Resolved by the General Assembly of the State of Ohio, That there be printed in the German language, for the use of the members of the general assembly, fifteen hundred copies of the report of the auditor of state; one thousand copies of the report of the warden of the penitentiary; fifteen hundred copies of the report of the secretary of state; twenty-five hundred copies of the report of the board of commissioners for reform school, and two thousand copies of the governor's message.

F. W. THORNHILL,
Speaker of the House of Representatives.

J. C. LEE,
President of the Senate.

Adopted November 25, 1868.

JOINT RESOLUTION,

Relative to the transfer of patients from the Central District to the the Northern and Southern Lunatic Asylums.

Resolved by the General Assembly of the State of Ohio, That the trustees of the Northern Lunatic Asylum, at Newburgh, be and they are hereby directed to receive and provide for one hundred and twenty insane patients from the Central District. The governor is hereby authorized and directed to contract with the proper authorities of Hamilton county, for the reception and support of one hundred insane patients in the Long-view Asylum from the Central District, at a price not greater than the average cost of the insane in the other insane asylums of the state; and the trustees of the Southern Lunatic Asylum, at Dayton, are hereby directed to receive and provide for sixty insane patients from the Central District; and they are further directed, in addition to the foregoing mentioned number, to receive recent and curable cases of insanity occurring in the Central District, on the same conditions and under the same regulations as they are directed by law to receive recent and curable patients of the Southern District. The foregoing to remain in force till further provision is made for the insane in the Central District.

F. W. THORNHILL,

Speaker of the House of Representatives.

J. C. LEE,

President of the Senate.

Adopted November 25, 1868.

JOINT RESOLUTION,

For the appointment of a Committee on Cattle Disease.

WHEREAS, There has been great complaint and losses sustained by many persons in our state on account of cattle disease, which is believed by many to be caused by the cattle brought from Texas and other parts of the country, and as much of the wealth and prosperity of our state depend upon the successful raising of good cattle; therefore, be it

Resolved by the General Assembly of the State of Ohio, That a joint committee, to consist of three on the part of the house and two on the part of the senate, be appointed, whose duty it shall be to gain all the information in regard to this matter, and what should be done for the future protection of the cattle from this or any other dangerous or contagious disease, and to report at an early day by bill or otherwise.

F. W. THORNHILL,

Speaker of the House of Representatives.

J. C. LEE,

President of the Senate.

Adopted November 25, 1868.

JOINT RESOLUTION,

Providing for adjournment till January 5th, 1869.

Resolved by the General Assembly of the State of Ohio, That when this general assembly adjourns on Wednesday, November 25th inst., it stand adjourned to meet again on Tuesday, January 5th, A. D. 1869, at half-past two o'clock P. M.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Adopted November 25, 1868.

JOINT RESOLUTION,

To provide for printing additional copies of the Report of the Secretary of State, and his Report of Statistics.

Resolved by the General Assembly of the State of Ohio, That there be printed thirty-seven hundred (3700) additional copies of the report of the secretary of state for 1868, including the statistical report for the same year; 1200 copies for the use of the secretary of state, and 2500 for the use of the members of the general assembly.

Resolved, That there be printed and bound in muslin, in a style uniform with former reports of the commissioner of statistics, five thousand copies of the statistical report of the secretary of state in English, and one thousand in German; one hundred copies for the use of the secretary of state, three hundred copies for the state library, and the remainder to be distributed in equal proportion by the secretary of state among the members of the general assembly, and forwarded to them as soon as published, in care of their respective county auditors.

F. W. THORNHILL,
Speaker of the House of Representatives.
T. J. GODFREY,
President pro tem. of the Senate.

Adopted January 18, 1869.

JOINT RESOLUTION,

Authorizing the Secretary of State to buy a carpet for his office.

Resolved by the General Assembly of the State of Ohio, That the secretary of state be authorized to purchase, on account of the state, a suitable carpet for his office.

F. W. THORNHILL,
Speaker of the House of Representatives.
T. J. GODFREY,
President pro tem. of the Senate.

January 18, 1869.

JOINT RESOLUTION,

Relative to instructing the Standing Committee on Benevolent Institutions to inquire into the condition of the Benevolent Buildings.

Resolved by the General Assembly of the State of Ohio, That the standing committee on benevolent institutions, be directed to examine the condition of the public benevolent institutions of the state, with a view to ascertain if there is any further legislation necessary to perfect the buildings belonging to said institutions from destruction by fire, and report by bill or otherwise.

F. W. THORNHILL,
Speaker of the House of Representatives.
 J. C. LEE,
President of the Senate.

Adopted January 14, 1869.

JOINT RESOLUTION,

To provide water for the State House.

Resolved by the General Assembly of the State of Ohio, That the committees of the senate and house on public buildings, be and they are hereby directed to inquire into, and report at their earliest convenience, a mode by which the state house can be furnished with water; and they are hereby authorized to employ a competent architect to submit plans, specifications and estimates.

F. W. THORNHILL,
Speaker of the House of Representatives.
 J. C. LEE,
President of the Senate.

Passed February 4, 1869.

JOINT RESOLUTION,

Providing for printing extra copies of Mr. Leete's report on Admiralty Jurisdiction.

Resolved by the General Assembly of the State of Ohio, That there be printed for the use of the general assembly, five hundred copies of the report of the special house committee, Hon. Ralph Leete, against the extension of admiralty jurisdiction, by judicial construction, over the navigable rivers of the interior of the country, and in favor of congressional legislation to restrict such jurisdiction to tide-water and sea-going vessels.

F. W. THORNHILL,
Speaker of the House of Representatives.
 J. C. LEE,
President of the Senate.

Adopted February 9, 1869.

JOINT RESOLUTION,

Relative to the claim of the State of Ohio against John Paul.

WHEREAS, About the 17th of November, A. D. 1858, John Paul, in full payment, as he alleges, of his indebtedness to the state of Ohio, conveyed to the then attorney general of the state, certain real estate situate in Paulding county, state of Ohio, which said real estate was, on the 12th day of January, A. D. 1863, sold and conveyed, by the attorney general, to Thomas Dugan; and

WHEREAS, A suit is now pending in the court of common pleas of said Paulding county, between the said Paul and Dugan, in reference to said lands, in which it has been decided that said Paul had a right to redeem said lands within five years from the date of his said conveyance to the state; and a sale of said lands has been made under a decree of the court, and the proceeds, amounting to three thousand dollars or more, are awaiting distribution under the order of the court; and

WHEREAS, A question has arisen as to the extent of the interest of said parties respectively, in the proceeds of said sale, in which it is supposed the state of Ohio may have an interest; therefore,

Resolved by the General Assembly of the State of Ohio, That the attorney general of the state be and he is hereby authorized and empowered to adjust, settle and compromise with the said Paul and Dugan, upon such terms as he shall deem just and reasonable, any interest or claim that the state of Ohio may have in said lands or the proceeds arising from the sale thereof, or the said indebtedness of the state against the said Paul.

F. W. THORNHILL,

Speaker of the House of Representatives.

J. C. LEE,

President of the Senate.

Adopted January 28, 1869.

JOINT RESOLUTION,

Relative to meeting in Joint Convention, to count the votes cast for State Officers at the October election.

Resolved by the General Assembly of the State of Ohio, That the two houses of this general assembly meet in joint convention in the hall of the house of representatives on Thursday, January 7th, at 11 o'clock A. M., to count the votes cast for state officers at the election on the second Tuesday of October, A. D. 1868.

F. W. THORNHILL,

Speaker of the House of Representatives.

J. C. LEE,

President of the Senate.

Passed January 7, 1869.

JOINT RESOLUTION,

Relative to printing and distributing the General Laws of the session.

Resolved by the General Assembly of the State of Ohio, That the secretary of state be authorized and directed to have the general laws of this session of the legislature printed as soon as possible after enactment, in forms of sixteen pages, and that he cause five thousand copies of the same to be distributed as follows :

Ten copies to each member of the general assembly, and the remainder he shall distribute to the county auditors of the several counties in this state in proportion to their representatives in the legislature, unless otherwise directed by the senators or representatives from such counties ; said copies to be furnished under existing contracts and out of the number now required to be printed by law.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Adopted February 3, 1869.

JOINT RESOLUTION,

Providing for an exchange of Digests.

Resolved by the General Assembly of the State of Ohio, That the state librarian be authorized to exchange copies of Gholson and Okey's Digest, not exceeding fifty in number, for the digests of other states, to be placed in the state library.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Adopted February 9, 1869.

JOINT RESOLUTION,

Relative to printing the Adjutant General's Report.

Resolved by the General Assembly of the State of Ohio, That there be printed three thousand copies of the report of the adjutant general ; eighteen hundred for the use of the general assembly and twelve hundred for the use of the adjutant general.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Adopted February 11, 1869.

JOINT RESOLUTION,

Providing for a joint select committee to inquire and report as to the Raccoon River Valley.

Resolved by the General Assembly of the State of Ohio, That there be a special committee appointed, consisting of three on the part of the house and two on the part of the senate, with power to send for persons and papers, for the purpose of ascertaining the resources of the Raccoon River Valley, and the practicability of improving said river with a view to slack-water navigation, and report to this general assembly, at as early a day as practicable.

F. W. THORNHILL,
Speaker of the House of Representatives.
WM. LAWRENCE,
President pro tem. of the Senate.

Passed February 10, A. D., 1869.

JOINT RESOLUTION,

To provide for the distribution of Swan and Saylor's statutes to the Supreme, Common Pleas and Superior courts of Ohio.

Resolved by the General Assembly of the State of Ohio, That the Secretary of State is hereby authorized to cause to be distributed, by express or otherwise, one copy of Swan and Saylor's supplementary volume of revised statutes of Ohio, to each of the judges of the supreme court, courts of common pleas and superior courts in the state of Ohio.

F. W. THORNHILL,
Speaker of the House of Representatives.
T. J. GODFREY,
President pro tem. of the Senate.

Passed February 25th, 1869.

JOINT RESOLUTION,

Providing for printing additional copies of the report on Geological Survey of the State.

Resolved by the General Assembly of the State of Ohio, That there be printed for the use of the members of this general assembly, five hundred additional copies of the report of the special committee of the house in relation to a geological survey of the state.

F. W. THORNHILL,
Speaker of the House of Representatives.
T. J. GODFREY,
President pro tem. of the Senate.

Passed February 25th, 1869.

JOINT RESOLUTION,

Providing for the exchange of Statutes.

Resolved by the General Assembly of the State of Ohio, That the state librarian be authorized to exchange copies of Swan and Saylor's supplemental volume of revised statutes of Ohio, for the revised statutes of other states, not exceeding fifteen in number, in addition to the thirty-five copies already authorized to be exchanged by joint resolution of this general assembly, to be placed in the state library.

F. W. THORNHILL,

Speaker of the House of Representatives.

T. J. GODFREY,

President pro tem. of the Senate.

Adopted February 25th, 1869.

JOINT RESOLUTION,

Providing for the distribution of Swan and Saylor's Statutes.

Resolved by the General Assembly of the State of Ohio, That the number of Swan and Saylor's supplement to revised statutes necessary to supply the clerk of court of common pleas, auditor and probate court of, and the justices of the peace in each county of this state, in pursuance of a joint resolution of the general assembly, adopted May 7th, 1868, (O. L., vol. 65, p. 300) be distributed in the following manner: The clerk of court of common pleas of each county shall furnish to the secretary of state, on demand, a statement, under the seal of his office, showing the name of each and every justice of the peace in his county, with the township wherein each of said justices resides; that the secretary of state, on receiving such list, shall cause to be boxed the number of copies of said statutes necessary to supply the justices of the peace within each county respectively, and therewith the copies of said statutes required by said resolution to be distributed to the clerk of court of common pleas, auditor and probate court of each county; which copies, when so boxed, the secretary of state shall cause to be shipped by express, (or otherwise, when they cannot be so shipped) to the clerk of court of common pleas of the county to which they belong respectively; that on the delivery of said copies to such clerk, he shall at once transmit to the secretary of state, by mail, a receipt in full for the number of copies of said statutes, so shipped to him; that on receipt of said statutes it shall be the duty of each clerk of court to distribute them as provided by said resolution adopted May 7th, 1868, to wit: One to each justice of the peace in his county, one to the auditor and one to the probate court of his county, and shall retain in his office three copies; and said clerk shall, upon the delivery of said statutes to the several officers entitled thereto, take a receipt in writing for the same, which he shall preserve in his office, and the several officers receiving the same shall, at the expiration of their terms of office, take a receipt for said statutes from their successors, and file the same with the clerk of the court of the proper county.

Resolved further, That the cost of transportation of said statutes to each county shall be paid by the county auditor, in the same manner as he pays the cost of transportation of laws and journals shipped to him by the secretary of state.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed March 1st, 1869.

JOINT RESOLUTION,

Relative to granting to the Corresponding Secretary of the State Board of Agriculture the privileges of the State Library.

Resolved by the General Assembly of the State of Ohio, That the rights and privileges of the state library be extended to the corresponding secretary of the state board of agriculture, and to the clergy of the city of Columbus, of all denominations, who are pastors of congregations, each for his own especial use, subject to the rules, and upon application in person to the librarian.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Adopted February 25, 1869.

JOINT RESOLUTION,

Relative to authorizing the Governor to procure the admission of Augustus Taylor (colored) into the Longview Asylum.

Resolved by the General Assembly of the State of Ohio, That the governor be and he is hereby authorized and directed to make arrangements with the directors of Longview Asylum for receiving Augustus Taylor (colored), into the colored department of said institution, at the same rate paid for other patients received from the Central District, to take effect from the first day of April, A. D. 1868.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Adopted February 25, 1869.

JOINT RESOLUTION,

Requesting the Board of Public Works to cause an examination to be made as to a culvert near St. Mary's and of Paine Creek at the same point.

WHEREAS, Certain citizens of the county of Anglaize have presented a memorial to this general assembly, setting forth that the culvert on the

Miami and Erie Canal, nine miles north of the town of St. Mary's, in said county, is not of sufficient capacity to pass the water flowing from Paine creek, causing an overflow of lands above said culvert, and endangering the banks of said canal; therefore,

Resolved by the General Assembly of the State of Ohio, That the board of public works be requested to cause an examination to be made immediately, as to the capacity of said culvert to discharge the said waters of Paine Creek, as well as the other matters alleged in said petition; and that said board also cause an estimate to be made of the costs of making the requisite improvements in said culvert, and that said board make report to this general assembly.

F. W. THORNHILL,

Speaker of the House of Representatives.

T. J. GODFREY,

President pro tem. of the Senate.

Adopted March 15, 1869.

JOINT RESOLUTION,

For inquiring into damages to lands in the vicinity of the Lewistown Reservoir.

Resolved by the General Assembly of the State of Ohio, That a committee consisting of two members on the part of the senate and three members on the part of the house of representatives, be appointed to ascertain and report to this general assembly, whether any persons owning or having interest in lands in the vicinity of the Lewistown reservoir have sustained or are now sustaining any damage or injury to said lands by reason of the construction or existence of said reservoir, or by the flow of water from the same, required by the authority of the state, in any season of the year, for the use of the public works; and what should be done by the state to remove the cause of such damage or injury; or if not practicable to remove the same in any particular case or cases, then what amount of money should be paid in each of such cases to compensate for such damages; and that for the purposes herein required, said committee shall have power to take testimony and to send for persons and papers; provided, that all expenses for claims or damages not substantiated shall be paid by the party or parties making such claims.

F. W. THORNHILL,

Speaker of the House of Representatives.

T. J. GODFREY,

President pro tem. of the Senate.

Adopted March 15, 1869.

JOINT RESOLUTION,

Relative to appointing a joint committee to inquire into and investigate plans having for their object the prevention of explosions or other accidents to steam boilers.

WHEREAS, Constant accidents are occurring in the State of Ohio, by the explosion of steam boilers, resulting in the destruction of property and in a fearful loss of life; and

WHEREAS, Such explosions can, in almost all cases, be prevented by connecting with the boilers certain practical inventions calculated to give timely warning of impending danger; and

WHEREAS, It is the duty of the state of Ohio, and right and proper in itself, to investigate such plans and specifications of inventions as are intended to lead to so desirable and humane a result; therefore, be it

Resolved by the General Assembly of the State of Ohio, That a joint committee of two on the part of the senate and three on the part of the house be appointed to inquire into and investigate any plans or inventions, having for their object the preventing of explosions or other accidents to steam boilers, and to report to this general assembly by bill or otherwise.

F. W. THORNHILL,

Speaker of the House of Representatives.

T. J. GODFREY,

President pro tem. of the Senate.

Adopted March 12, 1869.

JOINT RESOLUTION,

Providing for the appointment of a Committee to attend the funeral services of Hon. I. C. Pennisten.

WHEREAS, The sad intelligence has reached this body, of the death of Hon. I. C. Pennisten, the member of the house of representatives from Pike county, at his home at Waverly; therefore, be it

Resolved by the General Assembly of the State of Ohio, That there be appointed a committee of three on the part of the house, and two on the part of the senate, to attend the funeral services of our deceased brother.

F. W. THORNHILL,

Speaker of the House of Representatives.

T. J. GODFREY,

President pro tem. of the Senate.

Passed March 19, 1869.

JOINT RESOLUTION,

Declaring the expediency of building a Reformatory Prison.

Resolved by the General Assembly of the State of Ohio, That it is expedient to build a reformatory prison intermediate to the "Ohio Penitentiary" and the "Reform Farm," for the confinement of the young and less hardened convicts, at such locality as may be designated by the general assembly.

F. W. THORNHILL,

Speaker of the House of Representatives.

J. C. LEE,

President of the Senate.

Adopted April 3, 1869.

JOINT RESOLUTION,

Relative to printing certain Reports.

Resolved by the General Assembly of the State of Ohio, That there be printed the following documents to wit:

Report of commissioner of common schools, 3,500 additional copies for the use of said commissioner; 3,000 additional copies in the German language, 1,000 copies for the use of school commissioner, and 2,000 copies for general assembly; report of Longview asylum, 1,800 copies; 1,000 for the use of asylum and 800 for general assembly.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Adopted March 13th, 1869.

JOINT RESOLUTION,

Relative to requesting our Senators and Members in Congress to oppose all further grants of lands to railroad or other corporations.

Resolved by the General Assembly of the State of Ohio, That land monopoly is one of the great evils of our country, and against the spirit of our institutions; and especially it is impolitic to place large tracts of the public domain under the contract of railroad or other corporations:

1st. Because it destroys in effect the benefits of the homestead law, driving those who would avail themselves of its beneficent provisions, away from the lines of travel into the wilderness.

2d. It gives undue power to such corporations, enabling them to oppress the laboring and producing classes of our people, and prevent or retard the settlement and cultivation of our public lands.

3rd. If the recent policy of congress is not changed, the public lands (which are the property of the people) will nearly all be under the control of mammoth corporations, which are already too powerful, and may become a source of danger to a free people.

Resolved, That the grants of public lands to corporations ought to be discontinued, and the whole of such lands ought to be held as a sacred trust to secure homesteads for actual settlers and for no other purpose, and that our senators and representatives in congress be requested to oppose all further grants of the public lands to railroad or other corporations.

Resolved, That the governor be requested to forward a copy of these resolutions to each of our senators and representatives in the congress of the United States.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Adopted March 13, 1869.

JOINT RESOLUTION,

Providing for the delivery of one copy of "Swan & Sayler's Revised Statutes" to the sheriff, by the clerk of the court of common pleas, in each of the counties of the state of Ohio.

Resolved by the General Assembly of the State of Ohio, That it shall be and is hereby made the duty of the clerks of the courts of common pleas of the several counties, to deliver to the sheriffs of their respective counties, one of their copies of "Swan & Sayler's revised statutes," which were directed to be delivered to said clerks under a joint resolution of this general assembly, passed May 7, 1868, and take his receipt for the same; and it shall be the duty of such sheriff to retain the same for the use of his office, and at the expiration of his term of office, to hand it over to his successor.

F. W. THORNHILL,
Speaker of the House of Representatives.

J. C. LEE,
President of the Senate.

Adopted April 3, 1869.

JOINT RESOLUTION,

Directing the Secretary of State to furnish certain counties copies of the Standard Weights and Measures.

Be it resolved by the General Assembly of the State of Ohio, That the secretary of state be, and he is hereby directed to furnish to the several counties of the state of Ohio, copies of the standard weights and measures as contained in his office, where the copies of the same heretofore furnished have been destroyed by fire, and that the same be furnished to the county auditors of the several counties aforesaid, in accordance with the provisions of the act of the general assembly, passed and took effect April 11, 1861.

A. T. WALLING,
Speaker pro tem. of the House of Representatives.

J. C. LEE,
President of the Senate.

Adopted April 13, 1869.

JOINT RESOLUTION,

Instructing our Senators and requesting our Representatives in Congress to procure the passage of a law limiting the jurisdiction of Admiralty Courts.

WHEREAS, The extension of exclusive admiralty jurisdiction by recent adjudications of the supreme court of the United States over the navigable rivers of the interior of the country, forming a coast line of more than thirty thousand miles, has suddenly deprived large numbers of peo-

ple of the use of competent remedies with which they have long been familiar, compelling them to resort to federal courts so remote from the residence of parties entitled to remedies, that justice is practically denied them as to a large class of cases; therefore,

Resolved by the General Assembly of the State of Ohio, That our senators in congress be and they are hereby instructed to introduce a bill into the congress of the United States, limiting the exclusive jurisdiction of all courts of admiralty to the tide-waters; and the said senators and representatives in congress from this state are hereby requested to use their efforts in favor of the passage of such bill.

Resolved, That the states interested in the navigable rivers of the interior, be invited to co-operate with this state in obtaining the congressional action necessary to the protection of the commerce and navigation of the water-craft rights and interests of their own people.

Resolved, That the governor of this state be and he is hereby requested to forward a copy of the foregoing preamble and resolutions to each of the senators and representatives in congress from this state, and to the governors of the several states, with the request that the governors of the said states lay them before the legislatures thereof.

F. W. THORNHILL,

Speaker of the House of Representatives.

J. C. LEE,

President of the Senate.

Adopted April 28, 1869.

JOINT RESOLUTION,

Providing for the sine die adjournment of the General Assembly.

Resolved by the General Assembly of the State of Ohio, That this general assembly will adjourn sine die on Tuesday, May 4, 1869, at 10 o'clock A. M.

F. W. THORNHILL,

Speaker of the House of Representatives.

J. C. LEE,

President of the Senate.

Adopted April 28, 1869.

JOINT RESOLUTION,

Requiring the Board of Public Works to report as to the feasibility of enlarging the Miami and Erie canal.

Resolved by the General Assembly of the State of Ohio, That the board of public works be and is hereby directed to report to this general assembly, on the feasibility and cost of enlarging the Miami and Erie and Ohio canals from Lake Erie to the southern terminus of said canals—

1st—To the capacity of the New York and Erie canal; and

2d—To the capacity of a ship canal.

F. W. THORNHILL,

Speaker of the House of Representatives.

J. C. LEE,

President of the Senate.

Adopted April 28, 1869.

JOINT RESOLUTION,

Relative to refunding tax on National Bank Shares.

Resolved by the General Assembly of the State of Ohio, That any person, who, by virtue of a joint resolution of the general assembly, adopted April 16, 1867, is entitled to a remission of tax on account of the same illegally assessed and collected on national bank shares, whether he be a resident or tax payer of the county where such tax was originally collected or not, shall be entitled to receive the amount in full due him as per said joint resolution from the state treasurer and the treasurer of the county in which said tax was collected; and the auditor of any county, in which such tax was illegally collected, is hereby authorized and required, on demand, to issue his warrant for, and the treasurer of such county is hereby authorized and required to pay the same to the person entitled as above to receive the same, or to his legal representative or assign.

F. W. THORNHILL,

Speaker of the House of Representatives.

J. C. LEE,

President of the Senate.

Adopted May 3, 1869.

JOINT RESOLUTION,

Rejecting the proposed Fifteenth Constitutional Amendment.

WHEREAS, The general assembly has received official notification of the passage, by both houses of the fortieth congress of the United States, of the following proposition to amend the constitution of the United States, in the words following, to wit:

"A resolution proposing an amendment to the Constitution of the United States.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled [two thirds of both houses concurring], That the following article be proposed to the legislatures of the several states as an amendment to the constitution of the United States, which, when ratified by three-fourths of said legislatures, shall be valid as part of the constitution, namely:

ARTICLE 15.

SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of race, color, or previous condition of servitude.

SEC. 2. The congress shall have power to enforce this article by appropriate legislation."

AND WHEREAS, Three-fourths of the legislatures of the states, composing the United States, are required to give assent to the said proposed amendment to the constitution of the United States before it becomes part thereof; and

WHEREAS, The people of Ohio, by over 50,000 majority have rejected "negro suffrage;" therefore, be it

Resolved by the General Assembly of the State of Ohio, That the legislature of this state hereby reject the said XV. Article, proposed as an

amendment to the constitution of the United States, and on behalf of the state of Ohio, refuses to ratify the same.

Resolved, That the governor be requested to forward a copy of the foregoing preamble and resolution, properly attested, to the secretary of state of the United States, our representatives and senators in congress, and to the governors of each of the thirty-seven states in the Union.

F. W. THORNHILL,

Speaker of the House of Representatives.

J. C. LEE,

President of the Senate.

Passed May 4, 1869.

JOINT RESOLUTION,

Relative to providing for furnishing the Mayors of Cities, &c., with a copy of Swan and Sayler's Revised Statutes.

Resolved, That the secretary of state is hereby authorized and directed to deliver, by express or other safe means, to the mayors of cities and incorporated villages, to the school commissioner and adjutant general of Ohio, one copy of "Swan and Sayler's Statutes," each, to be received for and remain the property of the state, and be handed over to their respective successors in office.

F. W. THORNHILL,

Speaker of the House of Representatives.

J. C. LEE,

President of the Senate.

Adopted May 4, 1869.

JOINT RESOLUTION.

Providing for the sine die adjournment of the General Assembly and rescinding H. J. R., No. 142.

Resolved by the General Assembly of the State of Ohio, That this general assembly will adjourn *sine die* on Friday May 7th, 1869, at 12 o'clock, M. and that H. J. R. No. 142, providing for a *sine die* adjournment of this general assembly is hereby rescinded.

F. W. THORNHILL,

Speaker of the House of Representatives.

J. C. LEE,

President of the Senate.

Adopted May 5, 1869.

JOINT RESOLUTION.

Providing for the payment of Samuel Doyle.

WHEREAS, in the year 1855, in pursuance of an act of the general assembly, the board of public works awarded a contract for keeping a

division of the public works in repair, to Samuel Doyle, Thomas Miller, E. S. Hamlin, Samuel G. Foster and Lewis W. Sifford; and

WHEREAS, The said Samuel Doyle purchased the interest of his associates in said contract, thereby becoming sole contractor for said division, and whereas afterwards, Wayne Griswold, acting member of the board of public works in charge of that division of the public works, issued to said Samuel Doyle three checks on the state treasury for the sum of nineteen hundred and fifteen dollars (\$1915) each, and dated respectively December 15, 1856, January 15, 1857, and February 14, 1857, making in all the sum of five thousand seven hundred and forty-five dollars (\$5,745); and whereas, with the exception of the sum of two thousand seven hundred and sixty-one dollars and forty-four cents, paid in pursuance of a resolution of the general assembly, passed May 11, 1861, the amount of said checks is still due and unpaid; therefore,

Resolved by the General Assembly of the State of Ohio, That the auditor of state be and he is hereby authorized and directed to adjust the claim of said Samuel Doyle, and the standing committee on finance is directed to report an appropriation sufficient to enable the auditor of state to draw his warrant upon the treasurer of state for the payment to said Samuel Doyle of such sum as he shall find due him.

J. R. COCKERILL,

Speaker pro tem. of the House of Representatives.

J. C. LEE,

President of the Senate.

Passed May 6, 1869.

JOINT RESOLUTION,

Requiring the Board of Public Works to inquire into the matter of damages to West Zanesville, by water from the Muskingum River by reason of the construction of the State Dam at that point.

WHEREAS, In a memorial presented to the general assembly at its present session, signed by E. L. Gainer, John Peters and some four hundred other citizens of the town of West Zanesville, in the county of Muskingum, it is alleged that in consequence of the construction of the state dam across the Muskingum river at that place, serious damage has resulted to the property of said town, and that a portion of Water street has been destroyed by the action of the river; and

WHEREAS, It is further alleged that during the year 1860, an arrangement was made by certain persons owning property in said town, and the officers of the state in charge of the Muskingum river improvement, by which the state agreed to make certain improvements for the protection of said town, on the condition that the said property holders would pay in aid thereof the sum of fifteen hundred dollars, which it is asserted was paid over and expended by the officers of the state, and that then the work was abandoned before completed, the state paying nothing toward the construction of said improvement; therefore

Resolved by the General Assembly of the State of Ohio, That the board of public works be and they are hereby required to enquire into the truth of the allegations set forth in said memorial, and that said board of public works report the facts to this general assembly at the commencement of its next session, and that they report especially whether in consequence

of the construction of said state dam, Water street in said town of West Zanesville, has been seriously injured, and whether the embankment is sufficient for the protection of the property of said town, and also what amount of money would be required to restore said street and to construct said embankment, in such manner as to give proper protection to the property of said town.

F. W. THORNHILL,
Speaker of the House of Representatives.
 J. C. LEE,
President of the Senate.

Adopted May 6, 1869.

A JOINT RESOLUTION,

Looking to the payment of counsel, &c., in the case of the State against James M. Brown, &c., of Coshocton county.

WHEREAS, James M. Brown and Samuel Ketchum, of the county of Coshocton, Ohio, were heretofore indicted for the crime of embezzling and appropriating to their own use, the money in the treasury of said county, amounting to the sum of \$20,000, of which about \$14,000 belonged to the state of Ohio; and whereas, at the January term, 1869, of the court of common pleas of Licking county, Ohio, the said Brown was tried and convicted of said embezzlement, and fined in the sum of \$40,000; and whereas, the state of Ohio will be entitled to receive out of the fine so assessed, the money so embezzled belonging to the state, with interest thereon, amounting in the aggregate to about \$23,000; and whereas, there is no provision made by law, whereby the officers engaged in securing the arrest and conviction can be reimbursed for moneys paid out and expended by them, and counsel for the state paid for their services in prosecuting said case in the court of common pleas and in the supreme court of Ohio, to which application is now being made by said Brown for leave to file a petition in error to the court of common pleas of Licking county, in which court said case was tried; therefore,

Resolved by the General Assembly of the State of Ohio, That the commissioners of Coshocton county, Ohio, are hereby authorized to retain, out of the fine when collected from said Brown, such sum, not exceeding three thousand dollars, as will be the proportion the state ought to pay for the services of counsel for the state in conducting said prosecution, and for the payment of the officers and agents of said county for services in procuring the arrest and conviction of said Brown, and to reimburse them for moneys expended therein; the amount to be retained by said commissioners, out of the amount of the fine collected for the state, to be such proportion of the whole sum allowed by the commissioners for the purposes aforesaid, as the amount of the fine collected for the state bears to the whole fine collected for the state and county of Coshocton; and said commissioners are hereby authorized to apportion the same in paying the parties entitled thereto, in such manner as they may deem just.

F. W. THORNHILL,
Speaker of the House of Representatives.
 J. C. LEE,
President of the Senate.

Adopted May 6, 1869.

JOINT RESOLUTION,

Relative to recording certain Surveys.

WHEREAS, There are deposited in the office of the secretary of state, certain field notes of surveys of reserves, and other fragmentary surveys that have never been recorded in volumes for permanent preservation; therefore,

Resolved by the General Assembly of the State of Ohio, That the secretary of state be directed to cause such field notes and surveys to be collected, arranged and recorded in a volume for preservation and reference, in the style of the later records of surveys in his office; also, that he cause to be made and placed in his office, an index or directory of the different classes of records of surveys, with reference to the volumes in which the field notes and plats are recorded, for convenience and future reference; the whole expense of such records and index, not to exceed three hundred dollars.

F. W. THORNHILL,
Speaker of the House of Representatives.
 J. C. LEE,
President of the Senate.

Adopted May 6, 1869.

JOINT RESOLUTION,

Relative to requesting the Board of Public Works to report certain facts to the Governor or General Assembly.

Resolved by the General Assembly of the State of Ohio, That the board of public works be and hereby are requested to forthwith report to this general assembly, if in session, if not in session, then to the governor of the state:

First—When any member of the board last visited and inspected the Western Reserve and Maumee road.

Second—Whether any engineer of the board has visited and inspected said road every thirty days during the year last passed, and the name of such engineer.

Third—The present condition of said road and its condition one hundred days ago; and

Fourth—Whether said road has been kept in repair as required by the terms of the lease thereof.

F. W. THORNHILL,
Speaker of the House of Representatives.
 J. C. LEE,
President of the Senate.

Adopted May 3, 1869.

JOINT RESOLUTION,

Relative to having five hundred copies of the report of the Horticultural Society printed and bound for the use of said Society.

Resolved by the General Assembly of the State of Ohio, That the supervisor of state printing be and he is hereby instructed to cause five hundred copies of the report of the Ohio horticultural society to be bound separately in pamphlet for the use of the members of said society.

F. W. THORNHILL,
Speaker of the House of Representatives.
 J. C. LEE,
President of the Senate.

Adopted May 3, 1869.

JOINT RESOLUTION,

Providing for the purchase of grounds for the Central Lunatic Asylum.

Resolved by the General Assembly of the State of Ohio, That the trustees of the central lunatic Asylum be and they are hereby authorized and directed to purchase in the name of the state of Ohio, seven and one-half acres of land of A. D. Heffner or other parties, said land lying immediately east of and adjoining the south eastern portion of said central lunatic asylum grounds, at a price not exceeding fifteen thousand dollars, payment therefor to be made at such time after twelve months from the date of such purchase, as may be agreed upon.

F. W. THORNHILL,
Speaker of the House of Representatives.
 J. C. LEE,
President of the Senate.

Passed May 7, 1869.

JOINT RESOLUTION,

Authorizing the Secretary of State to contract with Lewis Huffman for supplying the State House with water.

WHEREAS, Lewis Huffman has submitted to the special committee of the house on supplying the state House with water, a written proposition, as follows:

That he will put down three or more pipes in the bottom of the present state house well, by which he will guarantee to furnish as much water to the pump connected therewith as it has the capacity of forcing to the tanks, if kept in constant use night and day, pumping at least three barrels per minute; that he will agree to complete the work within ten days, and upon condition that it prove a success, to the satisfaction of the govern-

or and state house superintendent, he shall be paid the sum of five hundred dollars as full and sufficient compensation for labor and machinery, and if the work does not prove satisfactory and a success to the satisfaction of the governor and state house superintendent as aforesaid, the said Huffman is to receive nothing therefor, and will be responsible for all damages ensuing to the pump or well: " Therefore, be it

Resolved by the General Assembly of the State of Ohio, That the secretary of state is hereby authorized to enter into a contract with the said Lewis Huffman, upon the conditions and terms of the foregoing proposal, and with the further condition that the said Lewis Huffman shall give good and sufficient bond, with security to the satisfaction of the governor and secretary of state, for the faithful performance of such contract in all its particulars.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed May 7, 1869.

JOINT RESOLUTION,

Instructing the Board of Public Works to examine the levees and tow paths along the Maumee river in Defiance county, and to report to the next General Assembly.

Resolved by the General Assembly of the State of Ohio, That the board of public works be and they are hereby instructed to make an examination of the levees and tow paths along the Maumee river, in Defiance county, and report what damage, if any, has been done, to real estate owners along the line of the canal, on said river, in said county, what repairs, if any, are required to be done by the lessees of the public works, to repair the said paths, and report the result of their investigation to the next session of the general assembly.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed May 7, 1869.

JOINT RESOLUTION,

To postpone the sale of certain Islands in the Great Miami river.

WHEREAS, Under a law passed April 5th, 1866, the auditor of state has made arrangements to sell certain islands in the Great Miami river belonging to the state, which, if sold without some legislation for the relief of persons who have reclaimed said islands, would do great injustice to the present occupants thereof; therefore,

Resolved by the General Assembly of the State of Ohio, That the auditor of state is hereby authorized and required to withhold the sale of the islands in the Great Miami river, belonging to the state of Ohio, until the 30th day of April, 1870.

F. W. THORNHILL,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

Passed May 7, 1869.

OFFICE OF THE SECRETARY OF STATE,
Columbus, O., July 3, 1869.

I hereby certify that the foregoing General and Local Laws and Joint Resolutions are correctly copied from the original rolls on file in this office.

ISAAC R. SHERWOOD,
Secretary of State.

TIMES OF HOLDING COURTS IN OHIO, FOR 1869.

OFFICE OF THE SECRETARY OF STATE,
Columbus, O., July 13, 1869.

The following list of the times of holding the District Courts and Courts of Common Pleas, for the year 1869, is published for the information of the Judiciary and Bar of the State. The dates are, generally, those fixed by the Judges—in a few instances, by the General Assembly.

ISAAC R. SHERWOOD,
Secretary of State.

FIRST DISTRICT.

District Court.

Hamilton, April 19, October 4.

Common Pleas.

Hamilton, January 4, June 7, November 1.

SECOND DISTRICT.

District Court.

Miami, May 12; Montgomery, April 30; Butler, May 17; Preble, May 14; Darke, May 3; Champaign, May 10; Clarke, April 26; Greene, May 24; Warren, May 31; Clinton, June 2.

Common Pleas.

Butler, January 11, April 6, October 18.
Preble, March 8, June 7, November 29.
Darke, February 15, May 17, October 18.
Montgomery, April 6, August 31, December 7.
Champaign, March 8, June 15, November 29.
Miami, February 1, May 31, October 25.
Warren, February 9, June 7, October 18.
Clinton, March 15, June 21, November 22.
Greene, March 15, June 21, November 1.
Clarke, January 25, June 7, September 20.

THIRD DISTRICT.

District Court.

Williams, August 3; Fulton, August 4; Wood, August 5; Henry, August 7; Defiance, August 9; Paulding, August 11; Van Wert, August 12; Allen, August 14; Putnam, August 17; Auglaize, August 19; Mercer, August 20; Shelby, August 23; Logan, August 25; Marion, August 28; Union, September 1; Crawford, September 3; Wyandott, September 6; Hardin, September 8; Hancock, September 10; Seneca, September 13.

Common Pleas.

Union, January 25, April 20, September 20.
 Hardin, January 11, March, 29, October 4.
 Marion, February 2, April 27, October 19.
 Logan, February 22, May 31, November 8.
 Shelby, February 8, May 10, October 18.
 Auglaize, February 23, June 14, November 2.
 Allen, March 9, June 22, November 16.
 Mercer, February 16, June 1, October 26.
 Van Wert, January 19, May 11, September 28.
 Putnam, February 2, May 25, October 13.
 Paulding, February 2, September 21, June 8.
 Defiance, February 8, April 26, September 27.
 Henry, February 15, May 3, October 4.
 Fulton, March 2, May 11, October 18.
 Williams, March 16, May 18, November 2.
 Wood, January 5, April 6, September 28.
 Seneca, February 16, May 18, November 8.
 Hancock, January 19, April 6, October 19.
 Wyandot, March 1, May 31, September 20.
 Crawford, February 9, May 4, November 9.

FOURTH DISTRICT.

District Court.

Erie, April 14; Huron, April 23; Lucas, April 7; Sandusky, April 13;
 Ottawa, April 21; Lorain, September 6; Medina, September 9; Summit,
 September 10; Cuyahoga, September 13.

Common Pleas.

Erie, February 1, May 17, October 4.
 Huron, March 1, June 7, November 8.
 Lucas, February 22, May 24, November 1.
 Sandusky, February 8, May 10, October 18.
 Ottawa, May 4, October 26.
 Lorain, March 15, June 7, November 15.
 Medina, February 9, May 25, October 13.
 Summit, February 22, May 3, October 25.
 Cuyahoga, February 8, May 10, November 1.

FIFTH DISTRICT.

District Court.

Madison, May 4; Franklin, May 5; Pickaway, May 10; Adams, Sep-
 tember 18; Clermont, September 24; Fayette, May 14; Ross, October 1;
 Highland, September 28; Brown, September 20.

Common Pleas.

Brown, February 9, June 1, November 2.
 Adams, January 27, May 18, September 21.
 Clermont, June 29, October 12.
 Highland, January 12, May 18, October 13.

Ross, January 26, June 1, November 2.
 Fayette, February 23, June 29, November 30.
 Madison, February 2, May 18, October 19.
 Pickaway, March 8, June 15, November 2.
 Franklin, February 16, June 1, November 15.

SIXTH DISTRICT.

District Court.

Delaware, June 23; Licking, July 7; Knox, July 2; Morrow, June 16;
 Richland, June 7; Ashland, June 14; Wayne, June 3; Holmes, June 1;
 Coshocton, June 28.

Common Pleas.

Delaware, January 18, April 19, October 18.
 Licking, January 11, April 5, August 16.
 Knox, February 23, August 3, November 16.
 Morrow, January 25, April 19, October 18.
 Richland, February 8, August 23, November 1.
 Ashland, March 8, September 6, November 15.
 Wayne, April 6, August 23, December 6.
 Holmes, March 8, June 21, November 15.
 Coshocton, January 26, May 4, October 19.

SEVENTH DISTRICT.

District Court.

Washington, April 8; Meigs, April 12; Gallia, April 15; Lawrence,
 April 19; Scioto, April 22; Pike, April 26; Perry, August 31; Fairfield,
 September 2; Hocking, September 6; Athens, September 9; Vinton, Sep-
 tember 13; Jackson, September 16.

Common Pleas.

Perry, February 9, May 11, October 5.
 Fairfield, February 22, May 24, October 18.
 Hocking, March 15, June 14, November 8.
 Pike, February 1, April 27, September 20.
 Lawrence, February 9, May 4, September 28.
 Scioto, March 8, May 31, October 25.
 Jackson, March 1, May 24, October 18.
 Vinton, March 15, June 21, November 22.
 Washington, February 2, April 27, September 20.
 Athens, February 23, May 17, October 18.
 Gallia, March 8, May 25, November 1.
 Meigs, March 22, June 7, November 15.

EIGHTH DISTRICT.

District Court.

Muskingum, August 30; Morgan, September 6; Noble, September 8;
 Monroe, September 13; Belmont, September 15; Guernsey, September
 20; Tuscarawas, September 24; Harrison, September 27; Jefferson, Sep-
 tember 29.

Common Pleas.

Muskingum, January 25, April 21, November 17.
 Morgan, March 9, June 1, November 2.
 Noble, April 6, July 20, October 19.
 Guernsey, January 25, April 26, October 11.
 Monroe, February 15, May 17, November 1.
 Belmont, March 1, May 31, November 15.
 Harrison, February 1, May 3, October 18.
 Tuscarawas, February 22, May 17, November 8.
 Jefferson, March 8, May 31, November 22.

NINTH DISTRICT.

District Court.

Stark, April 26; Columbiana, April 16; Trumbull, April 7; Lake, August 21; Ashtabula, August 17; Carroll, April 22; Mahoning, April 12; Portage, April 30; Geauga, August 24.

Common Pleas.

Carroll, January 18, May 4, September 20.
 Stark, February 22, May 31, November 8.
 Columbiana, February 1, May 17, October 18.
 Mahoning, January 11, May 4, September 20.
 Portage, February 9, May 24, October 19.
 Trumbull, March 1, June 7, November 8.
 Lake, February 1, May 17, October 4.
 Geauga, January 18, May 3, September 6.
 Ashtabula, February 15, May 31, October 18.

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